

Also, petition of the Retail Cigar and Tobacco Dealers' Association of Philadelphia, favoring support of sections 14 and 15 of H. R. 1438—to the Committee on Ways and Means.

Also, petition of the American News Company, of New York, favoring the Beveridge coupon amendment to H. R. 1438—to the Committee on Ways and Means.

By Mr. HUFF: Papers to accompany bills for relief of Daniel Hilliard, Adam Bruner, Tobias Dietrich, Elizabeth J. Newingham, James C. Welsh, Jonathan Merritt, and Jacob Blacksen—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: Petition of citizens of Woodstown, N. J., favoring abrogation of extradition treaty with Russia—to the Committee on Foreign Affairs.

By Mr. SULZER: Petition of H. C. Weller, for the Beveridge coupon amendment to H. R. 1438—to the Committee on Ways and Means.

Also, petition of New York State Bankers' Association, against inclusion of banks in corporation-tax amendment to H. R. 1438—to the Committee on Ways and Means.

By Mr. THOMAS of Kentucky: Paper to accompany bill for relief of Howard Newman—to the Committee on Claims.

Also, papers to accompany bills for relief of Zachariah Thomas, J. D. Campfield, and Josiah Morris—to the Committee on War Claims.

Also, paper to accompany bill for relief of Fred Bailor—to the Committee on Pensions.

Also, papers to accompany bills for relief of Joseph Dobson, T. J. Caskey, and John H. Winkfield—to the Committee on Military Affairs.

## SENATE.

SATURDAY, July 31, 1909.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. HALE, and by unanimous consent, the further reading was dispensed with.

### FLOUR AND WHEAT TRADE IN EUROPE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Special Agent Mack H. Davis on the flour and wheat trade in European countries and the Levant (S. Doc. No. 149), which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

### PETITIONS AND MEMORIALS.

Mr. SHIVELY. Mr. President, I present a memorial addressed to the President of the United States and the two Houses of Congress, adopted by the Church of the Brethren, at their regular annual conference at Harrisonburg, Va., in June of this year. This brotherhood has always consistently stood for peaceful and amicable methods of adjusting differences whether between individuals, communities, or nations. I ask unanimous consent of the Senate that the memorial of this brotherhood be set out in full in the RECORD and referred to the Committee on Naval Affairs.

There being no objection, the memorial was referred to the Committee on Naval Affairs and ordered to be printed in the RECORD, as follows:

*To His Excellency, the President of the United States, the Senate of the United States, and the Congress of the United States, greeting:*

Inasmuch as the Church of the Brethren has always favored arbitration as a means of settlement of all differences, whether of a local or general character, basing our claims upon (1) Bible authority and (2) the promise of adjustment without a resort to arms, arising out of peace congresses and national peace conferences; and, feeling that, where timely and intelligent interference has been brought to bear upon belligerent forces, peace has been restored without bloodshed, and our Nation honored;

We, the Church of the Brethren, therefore in our national conference assembled at Harrisonburg, Va., June 1 to 3, 1909, do hereby unanimously petition our Chief Executive and your honorable bodies carefully to consider the inadvisability of increasing the navy, feeling that whatever our beloved Nation does along the line of increased armament will greatly influence other nations and may precipitate war and bloodshed again upon us. We appeal to you therefore most earnestly in behalf of peace and righteousness. Rest assured that, in the responsible duties devolving upon you, you always have the prayers and assistance of our great brotherhood in your behalf.

D. M. GARVER, Moderator.

G. W. LENTZ, Reading Clerk.

A. G. CROSSWHITE, Writing Clerk.

Mr. SHIVELY presented the petition of W. T. Ferguson and sundry other citizens of the First Congressional District of Indiana, praying for the repeal of the present duty on hides, which was ordered to lie on the table.

### DISPOSITION OF USELESS PAPERS IN EXECUTIVE DEPARTMENTS.

Mr. GALLINGER, from the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments,

to whom was referred a letter from the Secretary of Commerce and Labor, transmitting a schedule of useless papers in that department which are not needed in the transaction of current business, and which have no permanent value or historical interest, submitted a report (No. 20) thereon, which was ordered to lie on the table.

### BILL INTRODUCED.

Mr. CRANE introduced a bill (S. 3093) granting an increase of pension to Amos S. Bean, which was read twice by its title and referred to the Committee on Pensions.

### FOREIGN TRADE AND TRADE RELATIONS.

Mr. HALE. I present a letter from the Secretary of State relative to an appropriation of \$100,000 to enable the State Department to further develop its foreign trade and trade relations. I move that it be printed as a document (S. Doc. No. 150).

The motion was agreed to.

### CIVIL-SERVICE EMPLOYEES FROM SOUTH DAKOTA.

Mr. GAMBLE. I submit a resolution, which I ask may be read and lie on the table.

The resolution (S. Res. 71) was read and ordered to lie on the table, as follows:

#### Senate resolution 71.

*Resolved*, That the Civil Service Commission is hereby directed to communicate to the Senate, at the earliest practicable day, a list of the names of those now in the service charged to the State of South Dakota, including the city or town and the county which clerk or employee claims as his or her residence, and the date of his or her appointment; also a statement as to the number to which said State is entitled under the provisions of the civil-service law.

### URGENT DEFICIENCY APPROPRIATION BILL.

Mr. HALE. I ask the Senate to take up the urgent deficiency appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11570) making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1909, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. HALE. I ask that the formal reading of the bill be dispensed with, and that the committee amendments be first considered.

The VICE-PRESIDENT. The Senator from Maine asks that the formal reading of the bill be dispensed with and that the amendments of the committee be considered as they are reached in the reading of the bill. The Chair hears no objection. The Secretary will proceed with the reading of the bill.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, under the head of "Executive," on page 2, after line 13, to insert:

#### DEPARTMENT OF STATE.

Foreign trade and treaty relation: For defraying the necessary expenses incurred in connection with foreign trade relations which come within the jurisdiction of the Department of State, under tariff legislation and otherwise, and in the negotiation and preparation of treaties, arrangements, and agreements for the advancement of commercial and other interests of the United States, and for the maintenance of a division of far eastern affairs in the Department of State, including the payment of necessary employees, at the seat of government or elsewhere, to be selected, and their compensation fixed, by the Secretary of State and to be expended under his direction, fiscal year 1910, \$100,000. A detailed statement showing expenditures under this appropriation shall be reported to Congress by the Secretary of State.

The amendment was agreed to.

The next amendment was, on page 3, after line 4, to insert:

For defraying the expenses of the next meeting of the International Union for the Protection of Industrial Property, to be held at Washington, D. C., in May, 1910, \$15,000.

Mr. CULBERSON. Mr. President, I will ask the Senator in charge of the bill to give us some explanation of this proposed expenditure of \$15,000, because what information I have leads me to believe that this is an amendment which ought not to be adopted. I understand that it is a proposition to carry out an invitation which was issued twelve or fifteen years ago, and which has probably expired by limitation. The whole thing seems to be in a somewhat nebulous condition.

Mr. GALLINGER. Mr. President, if the Senator from Maine will permit me, the Senator from Texas raised this question in committee, and as I had offered the amendment, I was not prepared to give a definite reply. The Senator will remember that I said, in my opinion, it related to patents and trademarks. The amendment was recommended by the State Department. I asked the Commissioner of Patents, who was greatly interested in this matter, to write me a letter on the subject, to which I trust the Senator from Texas will listen attentively. I ask that it be read from the desk.

The VICE-PRESIDENT. Without objection, the Secretary will read the letter.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,  
UNITED STATES PATENT OFFICE,  
Washington, D. C., July 31, 1909.

Hon. J. H. GALLINGER,  
United States Senate, Washington, D. C.

MY DEAR SENATOR: A request has been made through the State Department for the appropriation of \$15,000 to defray the expenses of the Congress for the International Protection of Industrial Property to be held at Washington, D. C., in May, 1910.

In order to elucidate the nature of this congress, I will briefly state the history of this international union. In March, 1883, an International Convention for the Protection of Industrial Property was concluded at Paris between the Governments of Belgium, Brazil, Spain, France, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland. The United States was represented at this congress, but did not adhere to the convention at that time. The subject of this convention was the reciprocal protection of patents and trade-marks, and the main provisions of the convention were to permit citizens of any of the contracting states to obtain patents and register trade-marks in any of the other states, so that in consequence thereof they should have the same protection as citizens of the states in which the patents were obtained or the trade-marks registered. It was further provided that if an application for patent or for the registration of a trade-mark was filed in one of the contracting states it would have the same force and effect in the other states in a contest upon the question of priority of invention or of priority of adoption of a trade-mark as if it had been filed in such other states, providing only that the application in the latter for patents must be filed within seven months and for the registration of trade-marks within four months after the filing of the original application.

This convention was adhered to by the United States on May 30, 1887. It has also been adhered to by all the other principal commercial nations, including Great Britain, Germany, Austria-Hungary, and Sweden.

In 1886 the sessions of the international congress were held at Rome, in 1890 at Madrid, and in 1897 at Brussels; at the latter congress substantial amendments were made to the terms of the original articles, further extending the reciprocal protection of industrial property. The United States was represented at that congress by Hon. Bellamy Storer and Hon. Francis Forbes. The President, through the Secretary of State, instructed the delegates to invite the congress to hold its next session in the United States, at Washington, D. C. The invitation to meet in the United States was accepted, but the date of the meeting was not fixed, and the congress adjourned to meet again at Brussels in December, 1900.

At the 1900 session of the congress certain amendments were made to the articles of the convention, the most important of which consisted in changing the period of priority in patent cases, above referred to, from seven to twelve months, and in extending the reciprocal protection accorded to trade-marks and commercial names. The delegates representing the United States at this congress were Hon. Lawrence Townsend, Hon. Francis Forbes, and Hon. Walter H. Chamberlin, then Assistant Commissioner of Patents. At this congress also attention was directed to the invitation above referred to, and Mr. Francis Forbes requested that the date of the conference which was to be held in the United States be definitely fixed, and pursuant to this suggestion the congress adjourned "to meet in Washington on a date to be arranged by the Government of the United States."

Another session of the international congress was, however, held at Berne, Switzerland, in 1904, at which Hon. Frederick I. Allen, then Commissioner of Patents, represented the United States. The attention of the congress was again called to this invitation, and it was resolved that the next official session of the congress should be held in Washington, D. C., in May, 1910.

No sessions of the international congress have been held since 1904. It may be stated in this connection that the delegates to these international congresses are provided by the respective governments with credentials empowering them to formulate and sign agreements relating to patents and trade-marks, which, when ratified by the respective governments, are effective as treaties.

Although no official congress has been held since 1904, there have been semi-official meetings of the association, the proceedings of which have been certified to the official congress as recommendations for the enactment of further agreements relating to patents and trade-marks. In 1907 one of the semi-official meetings was held at Berne, Switzerland, at which Hon. Frederick I. Allen, Commissioner of Patents, was delegate. In 1908 a similar meeting was held at Stockholm, Sweden, at which Hon. Edward B. Moore, present Commissioner of Patents, represented the United States.

The congress which will be held in Washington in 1910 will be a most important meeting, for the reason that it will be the official congress and will take under consideration such recommendations as have been agreed upon at the meetings of the semi-official congresses. One of the principal matters to be discussed will be the question of the working of patented inventions within a specified period, and efforts will be made to reach international reciprocal agreements between the nations, whereby the hardship now imposed upon inventors by the laws of various countries, which require the working of an invention in such countries within a specified time after the granting of the patent will be modified or possibly abrogated. I will state in this connection that a resolution was passed at the Stockholm congress in 1908 condemning in no uncertain terms the working clauses contained in the laws of the various countries.

Another important matter which will be discussed at this congress relates to the international registration of trade-marks, which, if effected, will provide that a trade-mark registered in an international bureau will be effective throughout the territories of all the adhering nations. The importance of such an agreement can not be overestimated, especially in view of the fact that the present laws of certain countries enable the citizens of such countries to readily pirate marks of citizens of the United States which have acquired great value by reason of extensive advertising and exploitation of the merchandise sold under such marks in foreign countries.

It is also believed that efforts will be made to reach an international agreement which will unify the patent laws of the various nations so that patent protection as well as trade-mark protection may be effected throughout the territories of all the adhering states by the registration of patents in the international bureau.

There will probably be about 150 delegates to this congress, and in view of the fact that it will be necessary to arrange not only for the entertainment of those delegates, but to prepare programmes for the pro-

ceedings and to take such steps as will be necessary to prepare for the meeting, it is earnestly urged that this appropriation be included in the present deficiency bill in order that the funds may be available in ample time to properly arrange for that international congress.

I inclose herewith copies of the text of the convention effected in 1883, and which was adhered to by the United States June 11, 1887, and also the additional act concluded at Brussels December 14, 1900, which I have referred to above.

Trusting that this explanation in the matter will be sufficient, I remain,

Very truly, yours,

EDWARD B. MOORE,  
Commissioner of Patents.

Mr. CULBERSON. Mr. President, I endeavored to pay strict attention to the reading of the letter. I was interrupted once or twice by conversation, and I may not have caught it all. My recollection of the reading is to the effect that in 1897, twelve years ago, the President of the United States extended an invitation to the delegates to hold the next convention of this character in the United States, at Washington probably. That, however, was not done. The next convention was held elsewhere; and in the meanwhile a number of conventions, probably half a dozen altogether, have been held in foreign countries.

I should like to know from the Senator from New Hampshire upon what authority the invitation was extended to the convention in 1910 which impliedly binds the Government of the United States to pay for the expenses of the convention.

Mr. GALLINGER. There was some irregularity about this matter. In 1902 Secretary Hay asked Congress for an appropriation for the convention, and it was not granted, notwithstanding the invitation had been extended from the President of the United States and accepted. There have been, I think, two conventions since that. However, the matter has been kept alive. It was spoken of in all the conventions abroad that they were to meet in the United States. The Secretary of State has requested Congress to make this small appropriation for the purpose. It seems to me that we are under an obligation to do this thing. We invited this convention at our own instance, the invitation was accepted; and while it has been delayed somewhat, it does seem to me it does not relieve us from the obligation to provide means for entertaining the delegates, just as other countries have done.

It is a very important matter, and I trust the Senator from Texas will not object to the amendment.

Mr. CULBERSON. Under the circumstances, I agree with the Congress in 1902 when it refused to make this appropriation. I do not think that this is such an amendment as ought to pass.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the head of "Treasury Department," on page 4, after line 16, to insert:

To enable the Secretary of the Treasury to pay the Minneapolis and Saint Ste. Marie Railroad Company money erroneously withheld for carrying the mail during the fiscal years 1906 and 1907, as certified by the Auditor for the Post-Office Department, \$1,659.23.

The amendment was agreed to.

The next amendment was, on page 5, after line 5, to insert:

The time within which claims may be presented for refunding the sums paid for documentary stamps used on foreign bills of exchange drawn between July 1, 1898, and June 30, 1901, against the value of products or merchandise actually exported to foreign countries, specified in the act entitled "An act to provide for refunding stamp taxes paid under the act of June 13, 1898, upon foreign bills of exchange drawn between July 1, 1898, and June 30, 1901, against the value of products or merchandise actually exported to foreign countries and authorizing rebate of duties on anthracite coal imported into the United States from October 6, 1902, to January 15, 1903, and for other purposes," approved February 1, 1909, be and is hereby extended to December 1, 1909.

The amendment was agreed to.

The next amendment was, under the head of "Under the Smithsonian Institution," on page 8, after line 7, to insert:

INTERSTATE COMMERCE COMMISSION.

To pay Charles Starek for services rendered the Interstate Commerce Commission from January 16 to June 26, 1907, inclusive, and expenses, \$333.89.

The amendment was agreed to.

The next amendment was, under the head of "District of Columbia," on page 9, line 6, after the words "United States," to insert:

And in case satisfactory price can not be agreed upon for the purchase of either or both of said tracts, or in case the title to either or both of said tracts can not be made satisfactory to the Attorney-General of the United States, then the latter is directed to procure said tract or tracts of land by condemnation, and the expenses of procuring evidence of title, or of condemnation, or both, shall be paid out of the appropriations made for the purchase of the tracts.

So as to make the clause read:

The titles to the tracts of land to be purchased for a workhouse and a reformatory provided for in the act approved March 3, 1909, being "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30,



1910, and for other purposes," shall be taken directly to and in the name of the United States; and in case satisfactory price can not be agreed upon for the purchase, etc.

The amendment was agreed to.

The next amendment was, on page 9, after line 20, to insert:

Any unexpended balances in the "Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1909, and for other purposes," to rent, equip, and care for temporary rooms for classes above the second grade, now on half time, and to provide for the estimated increased enrollment that may be caused by the operation of the compulsory education law, is hereby reappropriated and made available for the purchase, erection, and maintenance of portable schoolhouses for temporary use.

The amendment was agreed to.

The next amendment was, on page 10, after line 6, to insert:

Washington Asylum, District of Columbia: For additional amount required for erection of administration building at the workhouse for males to pay F. L. Averill balance due for preparation of plans and specifications for said building, \$640.54.

The amendment was agreed to.

The next amendment was, under the subhead "Military establishment," on page 11, after line 3, to insert:

To provide for payment of extra compensation for the officers composing the board appointed to pass upon the eligibility of colored troops discharged by executive orders on account of the Brownsville riot for reenlistment in the army, \$1,500 each, \$7,500, the same to be in full for extra compensation for their entire services connected therewith.

Mr. CLAY. Mr. President, Brownsville has cost us a good deal of money. I believe the committee appointed by Congress to make the investigation spent about \$30,000. It is now proposed to pay army officers \$7,500, and that is much less than was asked, for a continuation of this hearing. My judgment is the hearing will never amount to anything. It has not done any real substantial good yet.

I have an idea that when retired army officers are called upon by the War Department for the purpose of discharging a duty like this, the War Department has a right to call on them without giving them extra pay. An army officer is retired on three-fourths pay.

After reflection I am convinced, Mr. President, that the War Department has a right to call on the retired army officers to discharge such duties without extra pay. It is true that they asked for \$18,000. The chairman of the committee struck that out and inserted \$7,500 for all their services. I do not believe that a retired army officer, unless he is called into active service, ought to be paid for any work like this. We are very liberal, I think, and we ought to be, when we retire army officers on three-fourths pay; and if the War Department desires a retired army officer to perform such a service, I believe he ought to do it without any extra pay.

For my part, I am going to vote against the amendment.

Mr. WARREN. Mr. President, the Senator from Georgia is partly right and partly wrong.

In this case these officers have to come to Washington, open an office, and acquire residences, and they will have to pay for extra expenses, which will probably amount to more than this small sum we are allowing them. Instead of being nearly \$19,000 a year, the difference between active and retired pay and allowances of officers of the grade of these officers, this is but \$7,500 for the five general officers. The amendment ought to be sustained.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 11, after line 10, to insert:

The accounting officers of the Treasury are hereby authorized and directed to credit in the accounts of the disbursing officers of the several States, Territories, and the District of Columbia such amounts as have been, or may be, disallowed in their accounts for payments heretofore made by them on account of the participation of the organized militia in the encampments, maneuvers, and field instruction of the Regular Army, under the provisions of section 9 of the act of Congress approved May 27, 1908, entitled "An act to further amend the act entitled 'An act to promote the efficiency of the militia, and for other purposes,' approved January 21, 1903."

The amendment was agreed to.

The next amendment was, on page 11, after line 23, to insert:

The appropriation "for six months' additional pay to persons designated to receive the same by officers and enlisted men on active service who have died from wounds or disease contracted in line of duty," contained in the act of March 3, 1909, entitled "An act making appropriations for the support of the army for the fiscal year ending June 30, 1910," is hereby made available for payment to beneficiaries of officers and enlisted men on the active list who die from wounds or disease not the result of their own misconduct.

The amendment was agreed to.

The next amendment was under the head of "Department of the Interior," on page 12, after line 23, to insert:

For special repairs to the Pension Office building, fiscal year 1910, \$3,500.

The amendment was agreed to.

The next amendment was, at the top of page 13, to insert:

Capitol: For work at Capitol and for general repairs thereof, including flags for the east and west fronts of the center of the Capitol; flag-staffs, balyards, and tackle; wages of mechanics and laborers; purchase, maintenance, and driving of office vehicle, and not exceeding \$100 for the purchase of technical and necessary reference books, being a deficiency for the fiscal years 1909 and 1910, \$3,500.

Mr. HEYBURN. I should like to inquire of the Senator in charge of the bill whether there is included in the bill a provision for the construction of an elevator connecting with the underground passageway from the Capitol?

Mr. HALE. The committee allowed that, and it will be offered in order.

Mr. WARREN. I have it.

Mr. HEYBURN. It seemed to me that some provision should be made, and I did not find any in the bill.

The amendment was agreed to.

The next amendment was, on page 13, after line 9, to insert:

Senate Office Building: For maintenance, including heating, lighting, and ventilation, miscellaneous items, and for all necessary services for the Senate Office Building for the fiscal year 1910, \$36,000.

The amendment was agreed to.

The next amendment was, on page 13, after line 14, to insert:

That the sum of \$25,000, authorized to be expended out of the appropriation of \$1,000,000 made by the act of March 4, 1909, under the heading "Depredations on public timber, etc." Public No. 328, shall be available for any and all expenses heretofore incurred, or to be incurred, in indictments and punishment for and recovery of damages for the violations of law in said item set forth.

Mr. BORAH. I ask the Senator in charge of the bill what is the object of this amendment? We appropriated \$1,000,000 in the last Congress, I believe, for the same purpose.

Mr. CURTIS. The amount appropriated last year was not used. The special attorney and the prosecuting attorney presented the case to the grand jury and the men were indicted, but in rendering the account of expenses the accounting officers of the Treasury held that there were four or five hundred dollars of the amount which did not properly come within the provisions of the former item. The attorney has paid out the money in actual expenses, and this amendment is to permit them to pay that amount. It makes no additional appropriation whatever.

Mr. BORAH. The sum is \$25,000?

Mr. CURTIS. It means that out of the sum of \$25,000 which is already appropriated this small sum for expenses may be paid.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was continued to line 2, on page 15.

Mr. BURKETT. I move to strike out the paragraph beginning at line 22, on page 14, and ending at line 2, page 15.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After line 21, page 14, it is proposed to strike out the following:

To pay Orville H. Southmayd, United States deputy mineral surveyor, the amount found due him by the accounting officers of the Treasury as per certificate No. 8526, \$2,234.82.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Nebraska.

Mr. BURKETT. Mr. President, I want to say that I move the amendment because, so far as I can find, there is nothing official in support of this claim; that is, in the regular way. This is supposed to be an audited claim. It was put in on the floor of the House upon a letter written by an official of the Government importing that probably it would be certified as an audited claim in due course of events. But it has not been certified down that way.

I think that in this bill especially we ought to confine the items to present emergencies. This is an emergency bill. There are a good many claims just like this. This may come out all right; it may be certified down as an audited claim in the course of time. It ought to be down here by the next session of Congress in December. I am not willing to see the item go in without very much in support of it at this time.

Mr. HALE. I think the Senator is right. I have no objection to the paragraph being stricken out, and the conference can look into it.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Nebraska to strike out the paragraph.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, on page 15, after line 7, to insert:

INDIAN AFFAIRS.

To enable the Secretary of the Interior to complete the classification and appraisal of the lands of the Yakima Indian Reservation, in

Washington, in accordance with the provisions of the act of December 21, 1904, entitled "An act to authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation, in the State of Washington," \$25,000, or so much thereof as may be necessary: *Provided*, That this sum shall be reimbursed to the United States from the proceeds of the sale of the surplus lands of said reservation.

The amendment was agreed to.

The next amendment was, on page 15, after line 19, to insert:

The Secretary of the Interior is hereby authorized to expend \$5,000, or so much thereof as may be necessary, from the moneys placed in the Treasury to the credit of the Winnebago Indians by the act approved March 3, 1909 (35 Stat. L., p. 798), to carry out the provisions of the said act and cause the enrollment of the Winnebago Indians to be made as provided therein.

The amendment was agreed to.

The next amendment was, under the head of "Department of Justice," on page 17, line 2, after the word "dollars," to strike out "in all, \$12,733.33," so as to make the clause read:

For the fiscal year 1907, \$1,350.

The amendment was agreed to.

The next amendment was, on page 17, after line 4, to insert:

For the fiscal year 1908, \$6,000.

The amendment was agreed to.

The next amendment was, on page 17, after line 6, to insert:

For the fiscal year 1909, \$5,383.33; in all, \$12,733.33.

The amendment was agreed to.

The next amendment was, on page 18, after line 4, to insert:

For the following for the Department of Justice from August 1, 1909, to June 30, 1910, inclusive, namely:

Salaries: For 1 Assistant Attorney-General, at the rate of \$10,000 per annum; 1 Deputy Assistant Attorney-General, at the rate of \$7,500 per annum; 4 attorneys, at the rate of \$5,000 each per annum; for salaries of necessary employees, including employees at Washington, D. C., \$13,750; in all, \$48,125.

Contingent expenses: For furniture, supplies, traveling and other miscellaneous and incidental expenses, to be expended under the direction of the Attorney-General, \$6,875.

Mr. HEYBURN. I should like to inquire if this is a provision for the extra attorneys who are contemplated under the provisions creating a customs court?

Mr. HALE. Yes.

Mr. HEYBURN. Then it does not provide pay for any existing officer?

Mr. HALE. For officers created by the tariff act.

Mr. HEYBURN. That is, officers contemplated to be created by the tariff act?

Mr. HALE. Yes. If we do not appropriate for their pay, they will not get any money.

Mr. HEYBURN. I suspected that was the purpose of this amendment. Of course I am not in sympathy with the creation of that court, and I consequently am not in sympathy with any appropriation for the pay of the officers contemplated in the provisions of the bill creating the court.

I shall content myself with these suggestions, and with an indication of my dissent by vote.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BORAH. I thought my colleague raised the point of order upon the amendment.

Mr. HEYBURN. I did not specifically raise the point of order, but I sincerely hope some Senator will do so.

Mr. BORAH. I will proceed to do so now.

The VICE-PRESIDENT. What is the Senator's point of order?

Mr. BORAH. I desire first to offer an amendment, and if the amendment is accepted then I may not raise the point of order.

The VICE-PRESIDENT. Then the Senator does not now raise the point of order?

Mr. BORAH. No; I desire to offer an amendment. I move to strike out the word "ten," in line 9, and insert the word "six;" and between the word "thousand" and the word "dollars" to insert the words "five hundred;" so as to read "six thousand five hundred dollars."

Mr. President, this is the amount which was fixed in the tariff bill, although I understand that the conference report provides for a different amount. The amount which was fixed for the judges was \$7,500. I see that the conference report changes that to \$10,000.

Mr. SHIVERLY. The salary was fixed at \$7,000, if the Senator please; the same as that of judges of the United States circuit courts.

Mr. BORAH. At \$7,000. I propose, Mr. President, to offer an amendment to each one of these salaries, and to call for the yeas and nays upon those amendments. On the first amendment which I have offered, I now ask for the yeas and nays.

Mr. BEVERIDGE. Before the Senator from Idaho does that, may I ask him a question?

Mr. BORAH. Yes.

Mr. BEVERIDGE. I am more or less in sympathy with the Senator's view. If he were to make his amendment conform with the salaries now paid by law to the United States district and circuit judges, does it not occur to the Senator that he would get more votes for that proposition? It would seem that they should not be paid higher salaries than the judges of the United States circuit and district courts; but why should they be paid a lower salary? I merely make the suggestion to the Senator.

Mr. HEYBURN. Mr. President—

The VICE-PRESIDENT. Does the junior Senator from Idaho yield to his colleague?

Mr. BORAH. I do.

Mr. HEYBURN. I think perhaps the shortest way is to raise the point of order that this is new legislation.

Mr. BORAH. No.

Mr. HEYBURN. What is the use of tinkering it up, and then raising the point of order after the changes in salary have been made? Why not raise the point of order now?

Mr. BORAH. We are going to have a customs court, it appears, and I am willing that some reasonable salary shall be paid to its officers. If that can be agreed upon, I do not desire to raise the point of order; but I will withdraw my amendment if my colleague desires to raise the point of order.

Mr. HEYBURN. I desire to raise the point of order. It was my intention to raise a point of order against this and the succeeding amendments. The point of order is that they propose new legislation in an appropriation bill.

Mr. HALE. Mr. President, all of these provisions relating to the new court, the officers, assistant attorneys-general, the counsel in attendance upon it, are reported in this bill in conformity with the provisions of the tariff act, which has already been reported to the House of Representatives, and I am informed that an agreement has been reached that a final vote shall be taken upon it there at 8 o'clock this evening. Of course the provisions embodied in that bill do not become the law as the basis for the appropriation until the bill passes. I realize that, and the Committee on Appropriations realized that when this bill was reported. It is based on the assumption that the tariff act will pass both Houses and go into effect, and that then, whatever Congress does in the way of salaries, the salaries fixed by that act entitle the officers under it, whether Congress appropriates or not, to the amount fixed in the act as their salaries.

The only effect of raising the point of order now is that the pending bill will have to go over. Instead of our passing it to-day, with the many good things that are in it, we shall have to wait until after the tariff bill is signed by the President. Senators will be kept here for a quorum, Members of the other House will be kept there for a quorum, and we shall have to take the bill up later. That is a matter which the Senator who makes the point of order must realize as strongly as I do. I would appeal to him not to put the Senate and the other House and their Members to the inconvenience to which they will surely be subject if the point of order is now made.

Mr. HEYBURN. If the Senator will permit me, Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Idaho?

Mr. HALE. Certainly; I shall be glad to hear from the Senator in regard to the matter.

Mr. HEYBURN. Mr. President, it occurred to me, if this extraordinary legislation should become effective, that these officers should not be appointed before the meeting of the Senate which will have to confirm them. It seems to me that we are going a long way to legislate them into existence, and that there is no especial hurry about their being inducted into office. I think every Member of the Senate would like to look over, in executive session, the names of the appointees under this law, should it become effective. It did not occur to me that there was any good reason why we should make it possible to appoint these very important officers prior to the regular meeting of Congress in December next; otherwise we shall be brought face to face with the proposition that these officers have been appointed without the advice and consent of the Senate; and that, they being in position and having already assumed the duties of their office, that would be an element of pressure, if I may use the term, in favor of the confirmation of their appointments. It seemed to me that conservative action on the part of Congress would not require that we should enact this provision, or a similar one, until the meeting of the session of Congress at which the appointments would be presented.

Mr. HALE. Well, Mr. President, I am entirely willing to take the ruling of the Chair. I suppose the same point of order will be made with reference to the judges. They are on all



fours and depend on the passage of the tariff act. The result will be that we will go on with the rest of the bill, and either they will all go over, or another bill covering this subject will have to be reported later.

Mr. HEYBURN. Mr. President, I think the Senator from Maine will agree with me that the point of order under our rule is well taken. This is clearly new legislation proposed in an appropriation bill.

Mr. HALE. Oh, undoubtedly, Mr. President—

Mr. HEYBURN. Yes.

The VICE-PRESIDENT. The Chair does not take that view of it. The Chair may be permitted to say that it seems to the Chair that this does not create new offices, but that it appropriates for offices which, as the Chair understands from the debate, are not yet created. This amendment does not of itself create offices.

Mr. HEYBURN. Mr. President, that is not the point of order I raise. My point of order is that the amendment is new legislation proposed in an appropriation bill. It makes no difference upon what subject, under our rules you can not propose new legislation on an appropriation bill—general legislation, I should say. I used the term "new legislation" inadvertently. You can not fix the salary for an office that does not exist.

Mr. CLARK of Wyoming. Mr. President, whatever may be or may not be the reason for the point of order made by the Senator from Idaho [Mr. HEYBURN], I hope he will not insist on it at this immediate moment. I myself have been opposed from the beginning to the creation of this customs court. However, the Senate of the United States have decided that that is a proper part of the judicial machinery of the Government. When they decided that, my opposition to the court ceased; but I then had, and still have, a well-defined opposition to creating a special court that shall outrank the circuit and district courts of the United States. One way of showing that it outranks them is by fixing larger salaries for its judges than are fixed for the circuit and district court judges of the United States.

I would be content, notwithstanding my doubt as to the wisdom of the creation of this court, if the Congress of the United States in creating it should fix its salaries at a par with those of the highest judicial officers in the United States, save only the Supreme Court of the United States. I hope, therefore, that the point of order will be withdrawn and that the Senate may have an opportunity to vote upon the question suggested by the amendment of the junior Senator from Idaho [Mr. BORAH] fixing these salaries at a par with the salaries of the circuit and district judges of the United States. Further than that, I think we ought not to go.

With reference to the conference report, I am in doubt as to the power of the conferees to fix the salary of \$10,000 in the tariff bill. About that, however, I express no opinion; but I submit the inquiry, the Senate of the United States alone of the two bodies having acted upon this customs court, having fixed the salaries, whether a conference committee can increase those salaries? Certainly, if they have the power—which in a parliamentary way they may have—I can see no objection, if the salaries are fixed in that bill at \$10,000, to our limiting the appropriation to \$7,000. We do that continually as to other departments of the Government where the amount appropriated for the salary is not the same as the amount provided for in the statute creating the office.

I hope, under these conditions, that the Senator from Idaho [Mr. HEYBURN] will at least withhold his point of order for the time being until we can have a vote upon the amendment proposed by his colleague [Mr. BORAH].

Mr. HEYBURN. Mr. President, I would not for a moment suggest any action here that would inconvenience the Senate in a matter of importance, or otherwise. I had not considered the probability of being called upon to discuss or consider this question again at this session of Congress. If it is to be considered at this session of Congress, it is as well to consider it now as at any other time. I would not for a moment propose to postpone it at the inconvenience of the Senate or of Senators; and I am not disposed to interpose a point of order, that is undoubtedly sound under the rule, if Senators prefer at this time to consider the question of these salaries; and so I will withhold the point of order.

Mr. BORAH. Mr. President, I renew my amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. It is proposed, on page 18, line 9, before the word "thousand," to strike out "ten" and insert "six;" and after the word "thousand," to insert "five hundred."

Mr. BORAH. I also offer other amendments, so that we may vote on all of them at the same time. In line 10, I move to

strike out the word "seven" and to insert the word "five;" in the same line, to strike out the words "five hundred;" in line 11, after the word "attorneys," I move to insert "one;" and then after the words "per annum," in line 12, to insert the words "and 3 at the rate of \$4,000 each per annum," so as to read:

Four attorneys, 1 at the rate of \$5,000 per annum and 3 at the rate of \$4,000 per annum.

The VICE-PRESIDENT. The Senator should also include in his motion to strike out the word "each," in line 12.

Mr. BORAH. Yes; that is included. I desire to move those amendments to be considered as one amendment, and I ask for the yeas and nays on their adoption.

Mr. GALLINGER. I ask the Senator from Idaho if those are the amounts fixed in the tariff bill as it passed the Senate?

Mr. BORAH. I have undertaken to follow those amounts. I have them here.

The VICE-PRESIDENT. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. On page 18, line 9, after the words "rate of," it is proposed to strike out "ten" and to insert "six;" after the word "thousand," in the same line, to insert "five hundred;" in line 10, after the words "rate of," to strike out "seven" and insert "five;" in the same line, after the word "thousand," to strike out "five hundred;" in line 11, after the word "attorneys," to insert the word "one;" in line 12, after the word "dollars," to strike out the word "each;" and in the same line, after the words "per annum," to insert "and three at the rate of \$4,000 each per annum."

The VICE-PRESIDENT. Upon the amendment just stated the Senator from Idaho [Mr. BORAH] asks for the yeas and nays. The yeas and nays were ordered.

Mr. BAILEY. Mr. President, what is the pending amendment? I did not catch the question as stated by the Chair.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Idaho [Mr. BORAH], which has just been stated.

Mr. HALE. It proposes to reduce the salaries of the officers of the court.

The VICE-PRESIDENT. Does the Senator from Texas desire the amendment to be stated again?

Mr. BAILEY. No.

Mr. HALE. Mr. President, I shall not take up the time of the Senate. I simply desire to say that the rates fixed here were fixed after very careful examination under a realization of the great importance of this court, the magnitude of the business that it will have to transact, and the desirability of the court in its judges and in its officers being recognized by liberal salaries. The committee of conference took these matters into consideration in arriving at its result, and the Appropriations Committee has reported in accordance with that. However, it is all for the Senate to settle.

Mr. CLAY. Will the Senator let me ask him a question?

Mr. HALE. Certainly.

Mr. CLAY. As I understand, the conference committee has fixed the salary at \$10,000 per year. Is that correct?

Mr. HALE. For the judges.

Mr. CLAY. And \$7,500 for the Assistant Attorney-General?

Mr. HALE. Ten thousand dollars, also, for the Assistant Attorney-General.

Mr. CLAY. Did the Senate fix these salaries at \$10,000 before the bill went to conference?

Mr. SHIVELY. No.

Mr. CLAY. What was the amount fixed by the Senate?

Mr. SHIVELY. Seven thousand dollars.

Mr. CLAY. Was that item in conference at all?

Mr. HALE. The whole matter was in conference. It was not like a disagreement between the two Houses as to the rates; the whole subject was in conference under a new provision.

Mr. CLAY. It strikes me that, if we fix by law the salary at \$10,000 per year, it would be the duty of Congress to appropriate for that salary until it was changed.

Mr. HALE. Undoubtedly.

Mr. CLAY. But here is a question that worries me: The amendment reported by the Finance Committee of the Senate fixed these salaries at \$10,000, but on the floor of the Senate they were reduced to \$7,000; and then the bill went to the House and to the conference. If that be true, I can not see how the conferees could fix the salary at \$10,000, because if it were a Senate amendment fixing the salary at \$7,000, the House had either to agree or to disagree. Under those circumstances, the House could not, it strikes me, make it any higher.

Mr. HALE. Mr. President, the Senator will see that it is a very different question from what it would have been had the

Senate fixed \$7,500 and the House fixed \$6,500. Then, in conference, the range would have been limited.

Mr. CLAY. Yes.

Mr. HALE. But the House did not do that. The House did not express itself; it did not act upon it at all; and so the whole matter under the clause went to conference. They could fix any salary.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Texas?

Mr. HALE. Yes.

Mr. CULBERSON. I ask the Senator if the theory of the conference is not that the House disagreed to that amendment?

Mr. HALE. The House did disagree, but it did not fix any rate. There was a nonconcurrence. The House might have ordered \$25,000 as a reason for disagreeing; it might have ordered \$15,000; it might have ordered \$6,000; it might have ordered \$5,000; but it was all left open by the open disagreement; so that the whole matter was before the conferees to fix any rate. I think there is no question about that. But this is a matter, Mr. President, the Senate must fix.

Mr. BACON. Mr. President, I should like to inquire of the honorable Senator if it is not a fact that it frequently occurs that where one sum has been fixed as the compensation for an officer or for an employee, Congress appropriates a different sum?

Mr. HALE. No; not very often. There have been cases resulting from such action as the Senator indicates, the appropriation not being up to the legal salary, where the incumbent of the office has brought suit for the balance in the Court of Claims, obtained judgment, and collected the money; because an appropriation, unless it in terms states that the amount thereby appropriated shall be in full of all salary, does not cut off the incumbent of the office from the legal salary fixed by law.

Mr. BACON. There is no doubt about that fact; but it is also equally true that in a great many cases—I can not now put my hand upon them, but I recall them with certainty—where the compensation has been fixed at a certain amount by law, Congress has seen fit to vary that law by making the appropriation for a different amount and making it in such a way that the party could not collect a judgment.

Mr. HALE. I do not think, Mr. President, that there are many such cases. Of course, the notable case is the one that took place in 1875, when the salary bill was reported from the House. It cut down sweepingly hundreds of salaries and appropriated smaller sums. But there are not many cases where, deliberately, Congress has in an appropriation bill failed to appropriate the amount of salary fixed by existing law. Any such cases are exceptional.

Mr. DIXON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Montana?

Mr. HALE. Certainly.

Mr. DIXON. I want to call the attention of the Senator from Maine [Mr. HALE] and the Senator from Georgia [Mr. BACON] to a concrete example. The salary of the solicitor of the Internal-Revenue Bureau in the Treasury Department was fixed by law at \$5,000 per annum. For the past twenty years the appropriation has been \$4,500, until the passage of the appropriation bill for the current year.

Mr. BORAH. Mr. President, that matter can all be very easily remedied by a subsequent amendment providing that the amounts fixed shall be in full for all salaries. I do not desire to go back over the question of whether or not a customs court should be created; but the salaries now proposed are in excess of the salaries which are being paid to the federal prosecuting officers throughout the United States, who have to do with all matter of important questions, not only touching the collection of the revenue, but everything that pertains to the rights of the citizen in the courts. I do not see how it is to be argued with any reasonableness that we should provide for the officers of the proposed new court, who have to do with 150 cases, perhaps, a year, salaries in excess of those paid other judicial officers of the United States.

Mr. HALE. Mr. President, if the Senator will allow me, there will be a great many more than 150 cases. There is another reason why the scale should be kept up. I have alluded to it before. The Board of Appraisers, from whom appeals will be taken to this higher and greater court, are receiving salaries of \$9,000, and it would be, it seems to me, absurd that an appellate court, that is to overhaul the action of the appraisers and pass finally upon it, should have less pay than the Board of Appraisers, who sit as a business board to fix valuations, from which appeals are taken.

Mr. BORAH. Mr. President, in the first place, in my opinion, the Board of Appraisers are vastly more important than this court will ever be. I think the proposition is without any due foundation in reason, and it is in the nature of an impeachment both in the intelligence and capacity of the federal courts to outrank them by a special court, created for a specific purpose, to do a specific thing, regardless of what the law may be under which they act. Whether they shall do so or not I do not know, but if they do not they will be a disappointment to the men who have created the court.

Mr. President, as I said once before on the floor of this Senate, they have a system of raising salaries by which they seek to raise the salary of a man whose position is lower, and then they insist that all others above shall be raised, because it is improper to have a man in a lower station working for more than one above. That is the very position which we assumed last spring when we raised certain salaries, and they have invoked it again.

The only thing we can do in fixing salaries is to fix something like what is reasonable compensation, and if others have been raised too high, we can lower them; but certainly it will not be contended that the prosecuting attorney in this court is entitled to a greater salary than men who have to do with the most important subjects concerning the welfare, the liberty, and the interests of the citizen. I do not see why a distinction should be made as against those officers. If the salaries of the appraisers are too high, we might possibly, in view of the announcement of the policy of retrenchment, lower them, although we seem to have abandoned that policy about sixty days after it was initiated.

Mr. BURKETT. Mr. President, I want to reenforce what has been said with reference to our authority in appropriating for salaries. It has been hinted two or three times here that we can not appropriate less than the amount provided by law. In addition to the illustration the Senator from Montana [Mr. DIXON] has given, I want to say that there are a great many salaried officers who are drawing less under the appropriation acts than the law provides. I could, in the District of Columbia alone, I think, cite 15 different officers who are drawing less salary than the law provides they shall draw. Those matters have been tested, and, so far as the investigations go which I gave the matter some eight or ten years ago when I first began to look into these questions, I found that it was decided that when they accepted the salary which Congress had appropriated they could not get the additional payment.

Mr. JONES. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nebraska yield to the Senator from Washington?

Mr. BURKETT. I do.

Mr. JONES. I simply desire to suggest to the Senator that there are several surveyors-general in the West for whom every year for a great many years we have been appropriating less than the amount fixed by law for their salary.

Mr. BURKETT. Yes. I recall that now, knowing it from having made a personal investigation of that also. If we were to take a little time, we would find that there are, I suspect, hundreds of officers who are not drawing the salary provided by law. For example, let me call the attention of the Senate to one thing. Several years ago Congress passed a new code for the District of Columbia. For some reason or other some of the salaries provided in that code always seemed a little extravagant to Congress, and every year Congress has refused to appropriate for some of the salaries that are provided for in that code the full amount authorized by law. They were put high, perhaps, looking to the future, when salaries ought to be higher, with the knowledge that Congress year by year could regulate the amount in its appropriation acts or something of that sort. The law provides for the police judges' salaries higher than they draw, and it provides for the man in charge of the insurance department of the District of Columbia a higher salary than he draws. We have never appropriated the salary authorized by law for that officer, and so on through the list.

If Congress deems it unwise to appropriate as much for the salaries of the judges and officers of the customs court as the law shall provide, it has the right to do so; and, if it does so, those men, whoever they may be, in accepting their positions and taking the salary appropriated, will foreclose their right of recovering anything thereafter from the Government. But if there were any question about it, let me say there might be incorporated in the first paragraph of this bill a provision similar, as I recall, to the provision that we have added to the District of Columbia appropriation bill, to the effect that the several amounts appropriated for salaries shall be accepted in full payment by the persons holding such positions. There



could not be any question but that would foreclose their being able to recover anything from the Government.

Now, upon the question of salaries, I only rose to make that clear. I voted in the Senate for the salaries as they went through, not for these high salaries. I indorse, however, the position of the Senator from Wyoming, who has spoken, that there is no reason why the judges of this particular court should have salaries paid to them higher than those of all the federal courts except the Supreme Court; and if this matter comes to a vote, I for one am going to support the proposition of the Senator from Idaho to reduce these salaries in accordance with what the Senate voted when we voted upon this proposition.

Mr. HALE. Without taking any more time, for I am very desirous of having the bill disposed of, I will ask a vote of the Senate upon this proposition.

Mr. HEYBURN. Mr. President, I do not desire to detain the Senate, but it is well enough that the RECORD should show that the question was fairly before us and that we had the facts. It is a mistake to call the Board of Appraisers a court. They are not a court.

Mr. HALE. No; I said they were not.

Mr. HEYBURN. And it is not at all unusual for a court which reviews the action of officers of the Government to receive less salary than the officers whose action is reviewed. The mind of any Senator will immediately attach itself to a number of such instances. Take the courts which review the action of the Secretary of the Interior and the Secretary of the Treasury. Each of those officers receives very much larger salary than does the judge who is called upon to review their action.

It is not at all probable that the number of appeals to this tribunal will exceed a hundred a year. I merely base my estimate upon the number of appeals to-day to the courts from the Board of Appraisers. We are merely substituting this tribunal for the United States circuit court, to which court an appeal now lies; and it seems to me that the judges of a court confined to a single subject—customs duties—should not receive a higher salary than the judges of a court of general jurisdiction.

Mr. President, if I am correct in my estimate of the number of cases that would go to this court—say not to exceed a hundred a year—then it certainly will not be overworked or overburdened. The appraisers handle thousands of cases, some of which are not subject to appeal under the provisions of the act. They are executive officers, administrative officers; and no just comparison can be drawn between the salaries meet for judicial officers and for officials who, by the very terms of the law, are required to be present every day. Three of the appraisers must be present every day in the year. The court will sit according to its own appointment, with perhaps not to exceed seven or eight cases in a month during the entire year.

Mr. LODGE. Mr. President, the principal reason for the establishment of this court is the impossibility in the customs cases of having the Government's case properly presented in the great rush of business in the district attorney's offices. The cases are extremely difficult, requiring on the part of those who present them special training and special preparation, and it is very important in the interest of the Government to pay a salary sufficient to get a suitable man. And what is true of the attorney in charge of the cases is equally true of the court. I think there is nothing in the world so dear as a cheap court, and I believe, whatever may be done with other salaries, the salaries of these judges should be sufficient to permit men of the proper class, who, in most cases, would surrender a larger income in private life to take the places.

I think this compensation is essential to make this court what it is proposed in the other bill and in the appropriation bill it shall be. I think it is absolutely necessary in order that we may have the kind of court we ought to have and get the proper men for that court. I think it is the poorest economy in the world to cut down the salaries of judges. I entirely agree with the point made by the Senator from Wyoming, but I think it ought to be met by giving suitable salaries to the judges of the circuit and district courts, and not by exercising economy on the others.

Mr. CLARK of Wyoming. Mr. President, Congress within a twelvemonth has deliberately determined that it will not raise the salaries of the judges of the courts of appeals to \$9,000. In my judgment there can be no justice in establishing a court of this kind and say by our action that it is superior to our circuit courts of appeals, which now rank and ought to rank next to the Supreme Court of the United States. I am in hearty accord with the Senator from Massachusetts as to the salaries to be paid to our judges. I believe the judges of the circuit courts should receive a higher salary than they now receive, but unfortunately I am in the minority in that opinion.

It seems to me the Senate would stultify itself, when the salaries of the circuit judges of appeals are but \$7,000, to create another court with less jurisdiction, with less dignity, with less important matters coming before it, and make the salaries a third larger. For that reason I hope the amendment of the Senator from Idaho will carry, and if the time comes when we can raise the salaries of the circuit and district judges to a sum proportionate to their merit and to what they ought to have, then I shall not have any such deep-seated objection to increasing the salaries of the members of this court. I do not believe any judge in the federal service receives what he ought to receive, if he measures up to his office. I do not believe there is a judge upon the federal bench, who worthily fills the office, who could not make two or three or four times as much in the practice of the law. But there is a dignity attached to the bench which appeals to the bar. I hope the amendment will carry—both the amendment now before the Senate as to the salary of the Assistant Attorney-General, and so forth, and the coming amendment as to the salaries of the judges of this court.

Mr. HALE. Mr. President, let us have a vote.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Idaho; and on that the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BOURNE (when his name was called). I have a general pair with the senior Senator from Oklahoma [Mr. OWEN]. He being absent, I withhold my vote. Were he present I should vote "yea."

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. I transfer the pair to my colleague [Mr. LORIMER] and will vote. I vote "yea."

Mr. DILLINGHAM (when his name was called). I am paired with the Senator from South Carolina [Mr. TILLMAN], who is absent. I therefore withhold my vote.

Mr. GALLINGER (when his name was called). I am paired with the Senator from Tennessee [Mr. TAYLOR]. For that reason I withhold my vote.

Mr. JONES (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I transfer it to the Senator from Delaware [Mr. DU PONT], and will vote. I vote "yea."

Mr. MARTIN (when his name was called). I have a general pair with the junior Senator from Nevada [Mr. NIXON]. In his absence, I withhold my vote. I would vote "yea," if he were present.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN].

Mr. SMITH of Maryland (when Mr. RAYNER's name was called). My colleague, the senior Senator from Maryland, is unavoidably absent, and is paired with the Senator from New York [Mr. ROOT].

Mr. ROOT (when his name was called). I am paired for the day with the Senator from Maryland [Mr. RAYNER].

Mr. SIMMONS (when his name was called). I desire to inquire whether the junior Senator from Minnesota [Mr. CLAPP] has voted.

The VICE-PRESIDENT. The Senator from Minnesota has not voted.

Mr. SIMMONS. I withhold my vote. If he were present, I should vote "yea."

While I am on my feet I desire to say that my colleague [Mr. OVERMAN] is detained from the Senate to-day on account of illness. If he were present, he would vote "yea."

Mr. WARREN (when his name was called). I have a standing pair with the Senator from Mississippi [Mr. MONEY]. I therefore withhold my vote.

The roll call was concluded.

Mr. BAILEY. I desire to ask whether the Senator from West Virginia [Mr. ELKINS] has voted.

The VICE-PRESIDENT. The Senator from West Virginia has not voted.

Mr. SCOTT. My colleague is unavoidably away from the city this morning. He will not be back until Monday.

Mr. BAILEY. I have a general pair with the Senator from West Virginia [Mr. ELKINS]. If he were here, I should vote for this amendment.

The result was announced—yeas 37, nays 14, as follows:

# YEAS—37.

Bacon  
Beveridge  
Borah  
Bradley  
Bristow

Brown  
Burkett  
Chamberlain  
Clark, Wyo.  
Clay

Crawford  
Culliberson  
Cullum  
Daniel  
Dick

Dixon  
Dolliver  
Fletcher  
Gamble  
Guggenheim

Heyburn  
Hughes  
Johnson, N. Dak.  
Jones  
La Follette

McCumber  
Oliver  
Page  
Paynter  
Piles

Scott  
Shively  
Smith, Md.  
Smith, Mich.  
Stone

Sutherland  
Taliaferro

Brandegee  
Burnham  
Burrows  
Burton

Crane  
Curtis  
Flint  
Frye

# NAYS—14.

Hale  
Kean  
Lodge  
Smoot

Stephenson  
Wetmore

# NOT VOTING—41.

Aldrich  
Bailey  
Bankhead  
Bourne  
Briggs  
Bulkeley  
Carter  
Clapp  
Clarke, Ark.  
Cummins  
Davis

Depew  
Dillingham  
du Pont  
Elkins  
Foster  
Frazier  
Gallinger  
Gore  
Johnston, Ala.  
Lorimer  
McEnery

McLaurin  
Martin  
Money  
Nelson  
Newlands  
Nixon  
Overman  
Owen  
Penrose  
Perkins  
Rayner

Richardson  
Root  
Simmons  
Smith, S. C.  
Taylor  
Tillman  
Warner  
Warren

So Mr. BORAH's amendment to the amendment was agreed to.

The VICE-PRESIDENT. If there be no objection, the Secretary will change the total to conform to the amendment just agreed to.

The SECRETARY. In line 15, strike out "forty-eight thousand one hundred and twenty-five" and insert "forty-two thousand two hundred and fifty."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HALE. After the next item has been disposed of, I take it the Senator from Idaho proposes to move to reduce the salaries of the judges.

Mr. BORAH. I propose to offer an amendment.

Mr. HALE. An amendment. In view of the last vote of the Senate, I shall not on that question demand the yeas and nays, but will ask for a vote of the Senate.

The VICE-PRESIDENT. "Contingent expenses" was included in the last amendment. It was all voted on as one.

Mr. HALE. It was all voted on as one. Then let the Senator offer his amendment.

The VICE-PRESIDENT. The Secretary will first report the next committee amendment.

The next amendment of the Committee on Appropriations was, on page 18, after line 20, to insert:

# UNITED STATES COURT OF CUSTOMS APPEALS.

For the following for the United States court of customs appeals from August 1, 1909, to June 30, 1910, inclusive, namely:

Salaries: For salary of presiding judge and 4 associate judges, at the rate of \$10,000 each per annum; 1 marshal of the court of customs appeals, at the rate of \$3,000 per annum; 1 clerk of said court, at the rate of \$4,000 per annum; 1 assistant clerk of said court, at the rate of \$2,500 per annum; 5 stenographic clerks, at the rate of \$2,400 each per annum; 1 stenographic reporter, at the rate of \$2,500 per annum; and 1 messenger, at the rate of \$900 per annum; in all \$68,659.

Contingent expenses: For rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the United States court of customs appeals; for necessary traveling expenses of the court, its officials and employees; for books, periodicals, and stationery; for pay of bailiffs and all other necessary employees not otherwise specifically provided for; and for such other miscellaneous expenses as may be approved by the presiding judge, \$36,667.

The VICE-PRESIDENT. Does the Senator from Idaho desire to offer an amendment?

Mr. BORAH. I move to strike out the word "ten." in line 2, on page 19, and to insert "seven," so that it will read:

At the rate of \$7,000 per annum.

The SECRETARY. On page 19, line 2, before the word "thousand," strike out "ten" and insert "seven."

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. Without objection, the total in lines 11 and 12 will be changed to correspond.

Mr. HEYBURN. I think it is the intention to change the others in proportion. I ask my colleague, the Senator from Idaho, if that was the only amendment he desires to make.

Mr. BORAH. The Senator from Nebraska has an amendment which will cover the matter.

Mr. BURKETT. The senior Senator from Idaho refers, I think, to the other salaries. I have an amendment that the salaries shall be accepted in full payment.

Mr. LODGE. But the marshals in the ordinary districts get five or six thousand dollars. This is about half the salary.

Mr. HEYBURN. While I have the floor, I should like to call attention to one fact.

The preceding paragraph, providing for assistant attorneys-general, would be effective without regard to the passage of the tariff bill. That paragraph precedes the title "United States court of customs appeals," and we might find ourselves in the position of having largely increased the force of the Attorney-General's office, regardless of whether or not the tariff bill became a law. I call attention to that fact.

The VICE-PRESIDENT. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. BURKETT. I want to offer to this paragraph an amendment providing that the several amounts herein appropriated for salaries shall be accepted in full payment by the persons holding such positions. I suggest that it go in at the end of the first paragraph of the bill, in line 7, as a proviso.

Mr. HEYBURN. Page 18?

Mr. BURKETT. On the first page of the bill, at the end of the first paragraph, after line 7. I offer it, Mr. President, and if there is no objection to it—

Mr. HALE. Where would it come in?

Mr. BURKETT. Right on the first page of the bill.

The VICE-PRESIDENT. In the absence of objection, the Senate will return to the consideration of the first paragraph of the bill, and the Secretary will report the amendment offered by the Senator from Nebraska to that provision.

The SECRETARY. It is proposed to add at the end of the paragraph the following:

*Provided*, That the several amounts herein appropriated for salaries shall be accepted in full payment by the persons holding such positions.

Mr. HALE. I make the point of order on that.

The VICE-PRESIDENT. Is there objection to returning to the paragraph?

Mr. HALE. I do not think we had better return to it. If it is to be inserted, it ought to go on, I think—

The VICE-PRESIDENT. Objection is made to returning to the paragraph.

Mr. HALE. It ought to go on in connection with the salaries we have been debating.

Mr. BURKETT. That is very true. If it were put on here, it might cover other matters. I offer it to come in on page 18.

Mr. HALE. That is right. Now, let it be stated.

The VICE-PRESIDENT. On page 19?

Mr. BURKETT. On page 18, line 7, after the word "namely."

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to insert the proviso on page 18, after the word "namely," in line 7.

Mr. HALE. I make the point of order.

The VICE-PRESIDENT. That it is legislation?

Mr. HALE. Yes.

The VICE-PRESIDENT. It is clearly so. The Chair sustains the point of order. The Secretary will state the next committee amendment.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was under the head of "Department of Commerce and Labor," on page 19, after line 22, to strike out:

Until otherwise provided by law, no bond shall be accepted from any surety or bonding company for any officer or employee of the United States which shall cost in excess of the rate of premium charged for a like bond during the calendar year 1908, except that in any particular case or class of cases if the Secretary of the Treasury shall determine that the maximum rate of premium charged during the calendar year 1908 was less than a reasonable rate, he may, in his discretion, direct the acceptance of such bond or class of bonds, at premium rates exceeding not more than 50 per cent those charged during said calendar year: *Provided*, That hereafter the United States shall not pay any part of the premium or other cost of furnishing a bond required by law or otherwise of any officer or employee of the United States.

The amendment was agreed to.

The next amendment was, under the head of "Legislative," on page 21, after line 18, to insert:

# SENATE.

For compensation of the officers, clerks, messengers, and others in the service of the Senate for fiscal year 1910, namely:

Sixteen pages for the Senate Chamber, at the rate of \$2.50 per day each during the first session of the Sixty-first Congress, \$1,860.

For purchase of horses and carriage, or an automobile, including driving, maintenance, and care of the same, for use of the Vice-President, \$6,000.

For miscellaneous items, exclusive of labor, \$25,000.

The unexpended balance of the appropriation of \$2,000 for repairs to Maltby Building for the fiscal year 1909 is reappropriated and made available for the fiscal year 1910.

To reimburse the official reporters of the proceedings and debates of the Senate for expenses incurred during the first session of the Sixty-first Congress, for clerk hire and other clerical services, \$3,240.

For the following, on account of additional services to the Committee on Finance, namely: To pay Arthur B. Shelton, \$2,500; C. E. Alden, \$1,000; Herbert M. Lord, \$1,000; Joseph Dierken, \$600; R. H. Hillis, \$500; J. A. Klingaman, \$500; J. G. Thrall, \$400; H. L. Stevenson, \$300; Leo Rullman, \$200; H. W. Kitzmiller, \$200, and Edwin F. Ludwig, \$200; in all, \$7,400.

The amendment was agreed to.

The next amendment was, on page 23, after line 2, to insert:

To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and the House borne on the annual and session rolls on the 1st day of July, 1909, including the Capitol police, the official reporters of the



Senate and House, and W. A. Smith, CONGRESSIONAL RECORD clerk, for extra services during the first session of the Sixty-first Congress a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available.

The amendment was agreed to.

The next amendment was, on page 23, after line 12, to insert:

Statement of appropriations: The statement of appropriations made during each session of Congress, including new offices created, offices omitted, etc., required by law to be prepared under the direction of the Committees on Appropriations of the Senate and House of Representatives, for the first session of the Sixty-first Congress, shall be consolidated with the statement to be prepared of the appropriation bills for the second session of said Congress and included in the same volume.

The amendment was agreed to.

The next amendment was, under the subhead "House of Representatives," at the top of page 24, to insert:

For purchase, driving, maintenance, and care of carriage, or other vehicle, and of horses, for use of the Speaker of the House of Representatives, \$6,000.

The amendment was agreed to.

The next amendment was, on page 24, after line 3, to insert:

To pay Herbert D. Brown for services rendered in connection with inquiry respecting rates of premium for surety bonds of officers and employees of the United States, \$400.

The amendment was agreed to.

The next amendment was, on page 24, line 17, after the word "employees," to strike out "for the month of July, nineteen hundred and nine," so as to make the clause read:

For the following employees: Forty-six pages, including 2 riding pages, 4 telephone pages, press-gallery page, and 10 pages for duty at the entrances to the Hall of the House, at \$2.50 per day each; 14 messengers in the post-office, at \$100 per month each; and for 3 telephone operators, at \$75 per month each; in all, \$5,190.

The amendment was agreed to.

The next amendment was, on page 25, line 3, after the word "debates," to insert "and the official stenographers to committees," so as to make the clause read:

To reimburse the official reporters of debates and the official stenographers to committees for moneys actually expended for clerical assistance, and for extra clerical services on account of the first session of the Sixty-first Congress, \$500 each, and to John J. Cameron \$240; in all, \$5,240.

The amendment was agreed to.

The next amendment was, on page 25, after line 21, to insert:

#### JUDGMENTS, COURT OF CLAIMS.

For the payment of the judgments rendered by the Court of Claims, reported to Congress at its present session in Senate Documents Nos. 137 and 143, namely:

For payment of the judgment entered up by the Court of Claims June 10, 1909, on mandate of the Supreme Court of the United States in cause No. 23689, in favor of J. M. Ceballos & Co., \$250,614.37, being allowance under contract for transporting prisoners of war from the Philippine Islands to Spain under treaty of Paris.

To pay the judgment of the Court of Claims in the case of the Atlantic Coast Line Railroad Company against the United States, No. 24914 in said court, \$20,807.84.

To pay the judgment of the Court of Claims in the case of the Atlantic Coast Line Railroad Company v. the United States, No. 29908, in said court, \$292.45; in all, \$226,714.66: *Provided*, That none of the judgments herein provided for shall be paid until the right of appeal shall have expired.

The amendment was agreed to.

The next amendment was, at the top of page 27, to insert:

#### AWARDS, SPANISH TREATY CLAIMS COMMISSION.

To pay certain awards made by the Spanish Treaty Claims Commission under the provisions of the act of March 2, 1901, certified to Congress in Senate Document No. 144 at the present session in favor of the following, namely: Jose Antonio Mesa, \$2,500; Enriqueta S. de Barros, guardian of Louis Santa Maria, Alice Santa Maria, and Henry Santa Maria, surviving children of William Santa Maria, \$6,977; Adolfo Santa Maria, \$10,691; in all, \$20,168.

The amendment was agreed to.

The next amendment was, under the head of "Government Printing Office," on page 27, line 23, after the word "each," to strike out "in all, eight hundred dollars," and insert "and Joseph De Fontes, two hundred dollars; in all, one thousand dollars," so as to make the clause read:

To pay Samuel Robinson and William Madden, as messengers on night duty during the first session of the present Congress for extra services, \$400 each, and Joseph De Fontes, \$200; in all, \$1,000.

The amendment was agreed to.

The next amendment was, on page 28, after line 7, to insert:

#### ALASKA-YUKON-PACIFIC EXPOSITION.

For additional wiring, repairs to wiring, electric current, lamps and renewals of lamps, fiscal year 1910, \$24,000.

The amendment was agreed to.

The next amendment was, on page 28, after line 11, to insert:

#### THE ISTHMIAN CANAL.

The President is hereby authorized to cause to be entered into such contract or contracts, not to exceed the amount of the bond issue authorized in the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved ———, 1909, and acts supplementary thereto,

as may be deemed necessary for the proper excavation, construction, and completion of such canal and harbors, to be paid for as appropriations may from time to time be made by law.

The amendment was agreed to.

Mr. HALE. I have two or three committee amendments to offer. The first I send to the desk is on page 2, after line 13.

The SECRETARY. On page 2, after line 13, it is proposed to insert:

To enable the President to secure information and to assist the officers of the Government in the administration of the customs laws, as provided in section 2 of the tariff bill relating to the maximum and minimum rates, \$100,000, and a detailed statement of all expenditures under this provision shall be made to Congress at its next regular session.

Mr. WARREN. I wish to ask the chairman if he thinks that that appropriation of \$100,000 is necessary in this bill to inaugurate the system?

Mr. HALE. I have no doubt whatever that it will be necessary.

Mr. WARREN. The whole amount will be necessary?

Mr. HALE. Absolutely necessary.

Mr. CURTIS. I understand that it is a very urgent appropriation.

Mr. HALE. Undoubtedly.

Mr. CULBERSON. Mr. President, with reference to the amendment just proposed by the Senator from Maine, and recurring to the amendment adopted on pages 2 and 3 under the head of "Department of State," I ask the Senator if he will not state the necessity, if there be one, of making these two large appropriations in bulk, \$100,000 each, one to enable the Secretary of State to administer the maximum and minimum rates, I understand, and the other to enable the President to organize this advisory board, or tariff commission, or whatever it may properly be styled.

I will ask the Senator, I repeat, if he will not explain what necessity there is for appropriating this money in bulk without particularizing the items for which the amounts are to be used?

Mr. HALE. Mr. President, the two items, the one for the Secretary of State, which has already been adopted by the Senate, and this item for the President, do not cover the same subject-matter.

Mr. CULBERSON. I understood that, of course. My understanding is, as I stated, that one of them is for the Department of State and the other for the President. But the amounts are \$100,000 each. The Senator from Maine will recall, if I may allude to the subject here, that this was called to his attention in committee, and he expressed a disinclination to appropriate money in such large sums in bulk, but he made some explanation about it which was satisfactory to the committee; and that is what I want to have stated on the floor of the Senate for the benefit of those who object to this character of legislation.

Mr. HALE. I was proposing to go on to explain it, as well as may be. I agree fully with the Senator. It has been my experience on appropriations that it is better to particularize and itemize wherever it can be done. But we are, under the present policies and duties of the State Department and under the legislation contemplated by the tariff bill, confronted with the necessity for these large appropriations.

The reason why it is impossible to itemize in these matters is that it is inaugurating a new kind of work, and it is impossible for the President or the Secretary of State, in launching the enterprise and in starting the force required, to particularize now. So far as possible, I have endeavored to meet that by the added provision upon each of these clauses, that an itemized report shall be made to the Congress at the next session of every dollar of money expended under these appropriations. After that we shall know; and if there are further appropriations and expenditures of this kind required they will be submitted as regular estimates in itemized accounts.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Will the Senator from Maine yield to the Senator from Wisconsin?

Mr. HALE. Certainly.

Mr. LA FOLLETTE. I understood the Senator from Maine to say that the amendment which he offers is to appropriate \$100,000 for the State Department in administration—

Mr. HALE. No; it is to enable the President to secure information.

Mr. LA FOLLETTE. How is the appropriation to be applied?

Mr. HALE. I may say that the action was invoked only this morning, because there has been nothing known until late about the tariff bill. I conferred with the President, in order to learn for what purposes this sum of \$100,000 would be required. It will be required for the very important, sometimes critical, negotiations that will have to be entered into during the next year touching the maximum and minimum tariff provisions.

It is desirable not only in the view of the President, but I think all of us will agree to that, that the machinery of this new proposition should be put in force with as little friction as possible. The President will be obliged to send abroad the most careful and trained executive and diplomatic talent that he can invoke, not simply men in the department, but the best of men outside.

In passing I wish to say that the President does not propose under this provision to create a board that shall be permanent and stationary; but he is to use it under the provisions as finally incorporated in the tariff act in making a way, and making an easy way, for the installation, I may say, and operation of the maximum and minimum law.

Mr. LA FOLLETTE. It was upon that point that I wanted to be informed.

Mr. HALE. I am glad that the Senator asked the question.

Mr. LA FOLLETTE. Is the expenditure to be limited, as the Senator from Maine understands, entirely to the administration of these maximum and minimum features of the tariff act?

Mr. HALE. It is so in terms provided by the amendment. If the Senator has looked at the clause in the tariff bill, he will see that in that it is limited to that particular part.

Mr. LA FOLLETTE. The amount which the amendment proposes is \$100,000 for all purposes, I understand.

Mr. HALE. Yes; for all purposes. It is the best we could do. It will not do to leave the President without being properly armed. I went over the whole ground as to the amount, and I am satisfied that the next year he will need it all. As we get the minimum established and working right, it will be a great service and will help, and the amount of the appropriation is small compared with the benefits we hope to be derived from it.

Mr. LODGE. Mr. President, I should like to ask the Senator from Maine one question. Is it not true that under the operations of the tariff act the minimum and maximum feature which carries the general tariff must be dealt with before the 31st of March next?

Mr. HALE. The provision of the bill is that the operation of the maximum and minimum is deferred until that time, and I will not say all negotiations, but negotiations in the main, have got to be between now and that date.

Mr. LODGE. The President ought to have the information he requires as to other tariffs at once.

Mr. HALE. The sooner the better.

Mr. LA FOLLETTE. It is not intended, then, if I may inquire further, that any part of this money shall be expended by the President in securing information relative to the difference in the cost of production between this and competing countries, with a view of transmitting that information to Congress for its consideration. Is that true?

Mr. HALE. That part of the appropriation was stricken out in conference.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator from Maine a question. I notice that on pages 2 and 3 there is an appropriation of \$100,000 that is placed in the hands of the Secretary of State, to be used in investigations in our foreign commerce and otherwise as he may see fit, and that the amendment proposed now is along the same line, intended to give the President very large discretion in making such inquiries which he may deem necessary under the operations of the new tariff law.

Mr. HALE. The amendment that I offer is limited to information and negotiations upon maximum and minimum rates. The State Department appropriation is not in any way limited in that way and deals with the whole general subject of our foreign relations.

Mr. SMITH of Michigan. I simply want to ask the Senator from Maine whether such service as is contemplated by these two amendments would necessarily come under the civil-service law?

Mr. HALE. Undoubtedly not.

Mr. SMITH of Michigan. I am very thankful for that. Neither the Secretary of State nor the President should be circumscribed in the choice of assistants for this work. The work will involve expert knowledge, and men of professional and business experience should be chosen. In my opinion this could not be accomplished through the Civil Service Commission. Few appointees would take such places for the remuneration alone, while the honor of such a designation at the hands of the President or Secretary of State might be very tempting.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Maine on behalf of the committee.

The amendment was agreed to.

Mr. HALE. I offer the following amendment.

The SECRETARY. On page 5, after line 23, insert:

Expenses of collecting the corporation tax: The Secretary of the Treasury is hereby authorized to use during the fiscal year 1910, from the appropriation of \$200,000 for the "Withdrawal of denatured alcohol," made by the legislative act for the fiscal year 1910, and from the appropriation of \$150,000 for "Punishment of violations of internal-revenue laws," made by the sundry civil act for 1910, the sum of \$100,000 to provide for the expenses of the Internal-Revenue Bureau, to be incurred in collecting the corporation tax authorized by the act "to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August —, 1909.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. SHIVELY. What is the amount?

Mr. HALE. It is not an appropriation of money. It only authorizes funds from appropriations already made to carry out the corporation tax.

Mr. SHIVELY. It authorizes the divergence of a part of an existing fund?

Mr. HALE. Yes; of an existing fund; no additions.

Mr. BURKETT. I should like to ask as to the nature of that fund. I did not understand it.

Mr. KEAN. It is the denatured-alcohol fund.

Mr. BURKETT. What is that fund?

Mr. HALE. It is a fund that was given when the denatured-alcohol bill was passed to the internal revenue to carry out the provisions of the act.

Mr. BURKETT. Very well.

Mr. SCOTT. I am very glad the Senator from Maine has found a place to use that money. I think if there ever was a fund that was wasted, that fund was simply wasted and thrown away.

Mr. HALE. They did not waste all of it.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maine.

The amendment was agreed to.

Mr. HALE. I offer the following amendment.

The SECRETARY. On page 13, after line 9, it is proposed to insert:

For repairs and improvements to the Senate kitchens and restaurants, and for special personal services connected therewith, under the supervision of the Committee on Rules, United States Senate, to be expended by the Superintendent of the Capitol Building and Grounds, fiscal year 1910, \$9,540.

The amendment was agreed to.

Mr. HALE. I offer the following amendment, simply to restore a government bridge.

The SECRETARY. On page 16, after line 2, it is proposed to insert:

The Secretary of the Interior is authorized to cause the construction of a bridge across the Duchesne River at or near Myton, Utah, and the sum of \$25,000, or so much thereof as may be necessary, is hereby appropriated to pay the cost of construction.

The amendment was agreed to.

Mr. HALE. I offer the following amendment.

The SECRETARY. On page 20, after line 12, it is proposed to insert:

#### CENSUS OFFICE.

The Director of the Census may fix the compensation of not to exceed 20 of the special agents provided for in section 18 of an act to provide for the Thirteenth and subsequent decennial censuses, approved July 2, 1909, at an amount not to exceed \$10 per day: *Provided*, That such special agents shall be persons of known and tried experience in statistical work.

Mr. SHIVELY. I should like to have that amendment explained. I am inclined to raise the point of order that it is new legislation.

Mr. KEAN. The same provision has been made with reference to nearly every census.

Mr. LA FOLLETTE rose.

Mr. HALE. The chairman of the Committee on the Census will explain it.

Mr. LA FOLLETTE. Mr. President, the Director of the Census has asked to have this amendment incorporated in the bill. The value of the census depends very largely upon the thoroughness with which the plans are made and an interpretation of the data to be collected by the organized force.

The census with respect to manufactures alone especially requires a large amount of expert statistical direction. There are a chief of division and two or three assistants in that division; but it is impossible for them, with the administrative work which they have in hand, to make the plans for the detailed statistical and economic work that will be carried on in order that the census with respect to manufactures shall have any real value at all.

In the present condition of things it is almost impossible to secure the kind of talent necessary at the amount fixed by law, \$6 per day, which was the same amount fixed ten years ago. It is the purpose of the director to draw largely, for brief service,



from the universities and from leading business institutions, and the sum of \$10 a day seems to be very moderate compensation upon which to secure that sort of help.

I hope, Mr. President, that no point of order will be made, and that the amendment may be adopted.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Maine.

The amendment was agreed to.

Mr. HALE. I offer the following amendment, to come in on page 23.

The SECRETARY. It is proposed to amend the amendment of the committee on page 23 by inserting after the words "RECORD clerk," in line 9, the words "and John W. Evans, employed in connection with the Senate Office Building."

The VICE-PRESIDENT. For the purpose of considering the amendment to the amendment, the amendment will be treated as open.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HALE. I offer the following amendment.

The SECRETARY. On page 16, after line 2, it is proposed to insert:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to relieve existing suffering, destitution, and want among the Indians of La Pointe Indian Agency, Wis., by reason of the destruction of their homes and farms by floods, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000, or so much thereof as may be necessary, to be immediately available: *Provided*, That a detailed report of all expenditures hereunder shall be made to the next session of Congress by the Commissioner of Indian Affairs.

The amendment was agreed to.

Mr. LA FOLLETTE. I ask leave to have printed in the RECORD, in connection with the amendment with respect to the Indian agency in northern Wisconsin, communications from the Secretary of the Interior and the Commissioner of Indian Affairs showing the necessity of the appropriation.

Mr. HALE. I am glad the Senator has made that request.

The VICE-PRESIDENT. Is there objection to the request? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

LETTER FROM THE ACTING SECRETARY OF THE TREASURY, TRANSMITTING A COMMUNICATION FROM THE ACTING SECRETARY OF THE INTERIOR, AND A MEMORANDUM FROM THE COMMISSIONER OF INDIAN AFFAIRS, SUBMITTING AN ESTIMATE OF APPROPRIATION TO RELIEVE SUFFERING, DESTITUTION, AND WANT AMONG INDIANS.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, July 29, 1909.

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Acting Secretary of the Interior, of this date, submitting an estimate of appropriation for incorporation in the urgent deficiency bill, for the relief of the suffering, destitution, and want among Indians, by reason of floods, epidemics of disease, or other emergencies, \$50,000.

Respectfully,

CHARLES D. NORTON,  
Acting Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,  
Washington, July 29, 1909.

SIR: I have the honor to transmit herewith, with my approval, a draft of an item for incorporation in the urgent deficiency bill for the relief of suffering, destitution, and want among Indians. In submitting this recommendation for a deficiency appropriation, I inclose herewith a memorandum prepared by the Commissioner of Indian Affairs, at the request of Senator LA FOLLETTE, stating the necessity therefor.

Respectfully,

FRANK PIERCE,  
Acting Secretary.

The SECRETARY OF THE TREASURY.

ITEM.

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to relieve suffering, destitution, and want among Indians, by reason of floods, epidemics of disease, or other emergencies, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, to be immediately available and to remain available until expended: *Provided*, That a detailed report of all current expenditures hereunder shall be made to each session of Congress by the Commissioner of Indian Affairs.

MEMORANDUM SUBMITTED AT REQUEST OF SENATOR LA FOLLETTE, JUSTIFYING ITEM OF APPROPRIATION TO RELIEVE DESTITUTION AND WANT AMONG INDIANS.

In the care of Indians unforeseen emergencies, such as floods, pestilence, and disaster, are prone to arise. Last January, for instance, a band of Indians near Helena, Mont., under the leadership of Chief Rocky Boy, would have frozen and starved to death except for the exertions of good citizens of Helena and timely aid rendered by the War Department in the shape of food and clothing for the Indians and forage for the animals. The department was powerless to afford more than temporary relief through lack of any appropriation available for the purpose. Again, Indians are especially liable to epidemics of contagious and infectious diseases, such as trachoma, smallpox, consumption, etc., and the present force and appropriation are entirely inadequate to handle such outbreaks.

There should be established a medical corps similar to the corps for the suppression of liquor traffic, with a chief medical officer located at Salt Lake City, Utah, and district physicians located at strategic points in the field. The chief of this corps should be an expert in sanitation and treatment of epidemics generally, and his force, co-operating with the existing but scattered and undirected reservation physicians, should be able to establish and enforce the most modern and effective rules and regulations for the prevention and treatment of such diseases, to the lasting benefit of the Indians and their white neighbors.

An instance of such an emergency epidemic is that which occurred in the Indian Territory in 1901, which made it necessary for Congress to appropriate \$10,000 in the Indian act approved June 21, 1906 (34 Stat. L., 339), to pay the indebtedness incurred and for reimbursement of money expended in suppressing the spread of smallpox in the Indian Territory. Another such epidemic broke out at the Blue Canyon school, on the border of the Hopi Reservation, Ariz., where the equipment for isolation and treatment of the disease was found inadequate to keep down a general epidemic.

Within the week Bad River, near Ashland, Wis., has flooded the surrounding country and destroyed the homes and farms of the Indians at Odanah, on the Bad River Reservation. Many Indian families have lost all their possessions and have been temporarily deprived of all means of earning a livelihood. The Indians from Odanah have been brought into Ashland during the last four or five days and have nothing to eat and no place to sleep. They have been importuning the agent for relief, and he has been obliged, in the interests of humanity, to issue orders on local stores and boarding houses for food and shelter immediately required. A number of the Indians have no moneys to their credit and there are not sufficient funds available to relieve the suffering and destitution. It may be necessary for the Government to rebuild several of the houses, and a considerable bill will be incurred for clothing and subsistence supplies.

At Myton, Utah, on account of floods, etc., a number of the Indians were cut off from the source of supplies, and flour, meats, and other staple supplies became very scarce. Temporary relief was afforded.

To meet such cases as these—of sickness, suffering, and destitution in times of emergency—there should be an appropriation of \$50,000 made immediately available.

Respectfully,

R. G. VALENTINE,  
Commissioner of Indian Affairs.

JULY 29, 1909.

Mr. HALE. Now, if the clerks will turn to page 22, I think that will complete my requests. This is only formal. After the word "labor," in line 6, I move to insert, what was omitted by accident, the words "fiscal year 1909."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 22, line 6, in the committee amendment, after the words "exclusive of labor," insert the words "fiscal year 1909."

The VICE-PRESIDENT. The amendment of the committee will be considered open, and the question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. GALLINGER. I offer the following amendment, to which I think there will be no objection.

The VICE-PRESIDENT. The amendment offered by the Senator from New Hampshire will be stated.

The SECRETARY. On page 23, in the committee amendment, line 11, after the word "law," it is proposed to insert:

And to J. H. Jones, for caring for and regulating the Senate chronometer, and to A. C. Stewart, for caring for and regulating the House chronometer, \$100 each.

The VICE-PRESIDENT. The amendment of the committee will be considered open. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. LODGE. I offer the following amendment, to come in on page 23 as a new paragraph, after line 2.

The SECRETARY. On page 23, after line 2, it is proposed to insert:

To pay E. L. Cornellus, on account of extra services rendered to the joint committee on inauguration, \$250.

The amendment was agreed to.

Mr. WARREN. I offer the following amendment, to come in after line 9, page 13.

The SECRETARY. On page 13, after line 9, it is proposed to insert:

For additional elevator service, Senate wing of the Capitol, including service of operators from December 1, 1909, to June 30, 1910, fiscal year 1910, \$26,000.

Mr. CLAY. I should be glad to hear the amendment read again.

The Secretary again read the amendment.

Mr. HALE. I wish the Senator from Wyoming would explain whether this force is only in connection with new elevators that are contemplated.

Mr. WARREN. That is all; and it would only be from the 1st of December until June 30, 1910, or such time as we shall otherwise provide. The appropriation is for the construction and installation of one, and if it is possible, two passenger elevators for use of the public in the northeast part of the Senate wing, so that we can relieve the congestion that has

existed and will follow to a very much greater extent next season. This work ought by all means to be done during the recess.

Mr. CLAY. Was the amendment before the committee?

Mr. WARREN. It was unanimously recommended by the Committee on Rules; and through inadvertence the item was not, I think, laid before the committee.

Mr. CLAY. I thought the subcommittee had this amendment before it.

Mr. HALE. No; the Senator refers to another amendment, about larger expenditures in the new building, I think.

Mr. CLAY. My recollection is that that was adopted.

Mr. HALE. No; it was not adopted.

Mr. CLAY. This is for a different purpose entirely?

Mr. HALE. It is for one and possibly for two new elevators here in the Senate wing, to relieve the congestion.

Mr. CLAY. I think an amendment of this magnitude, carrying \$26,000, ought to be introduced in the Senate at a proper time and referred to the Committee on Appropriations, and data and information furnished the committee that would enable the committee to arrive at an accurate conclusion. In other words, we ought to know from information furnished the committee, and the committee ought to furnish it to the Senate, what these items are and that they are needed. I hope hereafter we shall pursue that policy.

Mr. WARREN. I will say that this was handled by another committee. The Senator is right; it should have been before the committee earlier; but it is a very plain case; the Committee on Rules had before it all the facts and figures, and there can be no objection to it.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DANIEL. I desire to propose an amendment to come in after line 8, on page 3.

The SECRETARY. On page 3, after line 8, it is proposed to insert:

To pay the claim of Marcus Ramadanovitch, alias Radich, a Montenegrin subject, for property said to have been appropriated by the United States military authorities in Texas during the month of October, 1865, \$6,396.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Virginia.

Mr. DANIEL. This claim was recommended in 1872 by the Secretary of the Treasury.

Mr. KEAN. I will only say to the Senator from Virginia that the amendment is subject to a point of order.

Mr. DANIEL. It is not subject to a point of order. It is under a recommendation of July 1, 1909, from the Secretary of State, who concludes with a recommendation that an appropriation be made of the amount named to pay the claim. It is also under the recommendation of a special message of the President of the United States, dated July 5, 1909. It, therefore, has the departments behind it and the special message of the President.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Virginia [Mr. DANIEL].

The amendment was agreed to.

Mr. CULBERSON. Mr. President, I move to amend the bill by striking out what appears on page 1, in lines 9, 10, and 11, and on page 2, lines 1 and 2, being the appropriation of \$25,000 for the traveling expenses of the President.

Mr. HALE. Will the Senator withhold that motion until one or two formal matters are presented?

Mr. CULBERSON. I shall be through in a few moments.

Mr. President, I am constrained to make this motion because, in my judgment, this provision, if enacted into law, would be a violation of the Constitution. The Constitution provides that—

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

It is apparent from the language, Mr. President, that the term "compensation" as used in the Constitution means remuneration for official services which are rendered by the President, and that the term "emolument" as used in the Constitution is broader than "compensation," and is intended to prohibit the President from receiving from the United States or any of the States anything in addition to the fixed compensation which may be understood as a part of the emoluments of the office.

Webster defines "emolument" as "the profit arising from office, employment, or labor; gain; compensation; advantage; perquisites, fees, or salary."

The Supreme Court of the United States has in effect declared that what I have said is the construction of this constitutional provision; that is, that "emolument" is a much broader term than "compensation," and includes such gain or profit or perquisites resulting from the filling of office as may be a gain or advantage to the President under the circumstances.

In the case of *Hoyt v. The United States*, in Tenth Howard, Mr. Justice Nelson uses this language on the general subject of emolument; not, of course, on the question of the President's salary, for that has never been presented to any court:

These terms denote a compensation for a particular kind of service to be performed by the officer, and are distinguishable from each other, and are so used and understood by Congress in the several compensation acts. They are also distinguishable from the term "emoluments"—

Which is italicized in the opinion—

that being more comprehensive, and embracing every species of compensation or pecuniary profit derived from a discharge of the duties of the office; and such is the obvious import of it in these acts.

A case, Mr. President, strikingly in point will be found in Third Queen's Bench Division of the Law Reports of England (*Saunders v. Postmaster-General*, 3 Q. B. D., p. 428), in which it is decided that, in order to reach the total emoluments of an office, there must be considered the allowance of traveling expenses. I shall not stop at this time to argue this question at any length; but in that case, where a telephone company was taken over by the Government of Great Britain, it was provided that the officials of the company who should be discharged by reason of the purchase should receive during their lives a certain amount of the annual emoluments of their offices. One of the telephone company officials took the position that, in reaching the total of the emoluments of the office, he was entitled to have added the amount of annual traveling expenses which was allowed him by the telephone company. The opinion of the court consists of three opinions by the three judges, all to the same effect, but I shall only read one, which covers the proposition clearly. It is as follows (p. 432), by Sir Henry Cotton:

The substantive question for our decision is whether or not the allowance for traveling expenses is to be taken into account in estimating the annual emolument derived from the office held by the prosecutor. I am of opinion that the profit the prosecutor makes by reason of the saving he effects from the allowances must be taken into consideration in ascertaining that which is given as a standard, "the annual emolument derived by him from his office."

Mr. President, I know that what I shall say about this matter will be ineffectual, but believing, as I do, that this provision, if enacted into law, would violate the Constitution of the United States, I can not get my consent to support it, but have thought it proper to make this statement of the reasons which influence me.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Texas [Mr. CULBERSON] to strike out the provision referred to by him.

Mr. HALE rose.

Mr. CULBERSON. Does the Senator from Maine rise to discuss the amendment?

Mr. HALE. No.

Mr. CULBERSON. I ask for the yeas and nays on the amendment.

The VICE-PRESIDENT. The Senator from Texas asks for the yeas and nays on his amendment.

The yeas and nays were not ordered.

Mr. CULBERSON. Manifestly a quorum is not present.

Mr. CLAY. I suggest, without making that point, that Senators give the Senator from Texas the yeas and nays on his amendment.

The yeas and nays were ordered.

Mr. DANIEL. Mr. President, I should like to vote for this proposition, and I should do so if I saw my way clear to do it under the interpretation of the Constitution which has just been illustrated by the Senator from Texas [Mr. CULBERSON]. I have never had sympathy with the curtailment of a full and reasonable salary of the few men in this country we have put at the head of our Government. Governed by that rule, I have voted for the liberal allowances which were proposed for the Speaker of the House of Representatives, the Vice-President of the United States, and the President of the United States. I should vote for this proposition if I could see that we had a right to enact it; but my mind is affected by the argument which the Senator from Texas has made, and, as at present advised, I feel constrained, against my own disposition, to vote against the proposition.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Texas [Mr. CULBERSON].

Mr. BACON. Mr. President, I desire to say a word, echoing what the Senator from Virginia [Mr. DANIEL] has just said.



I should not be willing that my vote should be construed into any indisposition to extend anything in the way of courtesy or of advantage that the Government can properly extend to the President of the United States, and more particularly to the present Chief Executive. When this question was before the Senate three or four years ago, I made a speech endeavoring to demonstrate the proposition that the appropriation would be in violation of the Constitution of the United States. At that time I not only voted against it, but made an argument against it. I could not now vote for it without stultifying myself. I am firmly and decidedly of the opinion that it is a violation of the provision of the Constitution of the United States read by the Senator from Texas [Mr. CULBERSON].

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Texas [Mr. CULBERSON], upon which the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I have a pair with the Senator from Tennessee [Mr. TAYLOR]. I transfer that pair to my colleague [Mr. BURNHAM], who is necessarily absent from the Senate, and vote. I vote "nay."

Mr. McCUMBER (when his name was called). I have a general pair with the junior Senator from Louisiana [Mr. FOSTER]. That Senator being absent, I withhold my vote.

Mr. MARTIN (when his name was called). I am paired with the junior Senator from Nevada [Mr. NIXON]. I transfer that pair to the junior Senator from North Carolina [Mr. OVERMAN], who is paired with the senior Senator from California [Mr. PERKINS], so that both the Senator from California and myself can vote. I vote "yea."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. Under the arrangement suggested by the Senator from Virginia [Mr. MARTIN], that pair is transferred to the junior Senator from Nevada [Mr. NIXON], leaving me at liberty to vote. I vote "nay."

Mr. ROOT (when his name was called). I again announce my pair with the Senator from Maryland [Mr. RAYNER], and therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. I do not see him present, and therefore withhold my vote.

Mr. WARREN (when his name was called). I have a pair with the senior Senator from Mississippi [Mr. MONEY]. I will transfer that pair, so that the Senator from Mississippi will stand paired with the Senator from Missouri [Mr. WARNER], and will vote. I vote "nay."

The roll call was concluded.

Mr. DEPEW (after having voted in the negative). I am paired with the Senator from Oklahoma [Mr. GORE]. When I voted, I did not notice that the Senator was not present. I will, however, transfer my pair with the Senator from Oklahoma to the junior Senator from Nebraska [Mr. BROWN] and vote. I vote "nay."

Mr. BOURNE. I have a general pair with the Senator from Oklahoma [Mr. OWEN]. I transfer that pair to the senior Senator from Delaware [Mr. DU PONT] and vote. I vote "nay."

Mr. DILLINGHAM. I have a pair with the senior Senator from South Carolina [Mr. TILLMAN], who is absent. I transfer that pair to the senior Senator from Rhode Island [Mr. ALDRICH] and will vote. I vote "nay."

Mr. BAILEY (after having voted in the affirmative). Unless my vote is necessary to make a quorum, I desire to withdraw it. I did not notice when I voted that the Senator from West Virginia [Mr. ELKINS], with whom I have a general pair, is not present. I presume he would vote "nay" if present. I withdraw my vote.

Mr. JONES. I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. If he were present, I should vote "nay."

Mr. CULLOM. I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. I transfer that pair to my colleague [Mr. LORIMER] and vote. I vote "nay."

Mr. GALLINGER. Before the announcement of the result of the vote is made, I desire to say that if my colleague [Mr. BURNHAM] were present, he would vote "nay."

Mr. SCOTT. I desire to make the same announcement for my colleague [Mr. ELKINS].

The result was announced—yeas 11, nays 36, as follows:

## YEAS—11.

Bacon	Culberson	Frazier	Shively
Chamberlain	Daniel	La Follette	Tallaferro
Clay	Fletcher	Martin	

## NAYS—36.

Borah	Crawford	Gallinger	Page
Bourne	Cullom	Gamble	Perkins
Bradley	Curtis	Guggenheim	Piles
Brandegee	Depew	Hale	Scott
Bristow	Dick	Heyburn	Smoot
Burkett	Dillingham	Johnson, N. Dak.	Stephenson
Burrows	Dolliver	Kean	Sutherland
Burton	Flint	Lodge	Warren
Crane	Frye	Oliver	Wetmore

## NOT VOTING—45.

Aldrich	Cummins	McEnery	Root
Bailey	Davis	McLaurin	Simmons
Bankhead	Dixon	Money	Smith, Md.
Beveridge	du Pont	Nelson	Smith, Mich.
Briggs	Elkins	Newlands	Smith, S. C.
Brown	Foster	Nixon	Stone
Bulkeley	Gore	Overman	Taylor
Burnham	Hughes	Owen	Tillman
Carter	Johnston, Ala.	Paynter	Warner
Clapp	Jones	Penrose	
Clark, Wyo.	Lorimer	Rayner	
Clarke, Ark.	McCumber	Richardson	

So Mr. CULBERSON's amendment was rejected.

Mr. McCUMBER. I offer the amendment which I send to the desk, to come in on line 2, on page 16, and will say that the amendment has been agreed to by the Committee on Appropriations.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 16, after line 2, it is proposed to insert the following:

For pay of Indian agent at Fort Berthold Agency, N. Dak., \$1,800.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BURKETT. Let me suggest to the Senator that there was an amendment inserted following line 2, and his amendment should follow the one inserted at that place.

Mr. McCUMBER. The amendment I have offered would come in following the other amendment. I wish to say that this is simply to correct an error on the part of the Committee on Indian Affairs. There is an agency at Fort Berthold, in the State of North Dakota, which has existed since the creation of the State. For quite a number of years it was designated as an agency, and then it was changed for two or three years to a superintendency; but in the bill making appropriations for the Indian Service for the year ending June 30, 1909, it was again made an agency. In the appropriation bill for the year ending June 30, 1910, for some reason the item was left out. I had it voted upon in the Committee on Indian Affairs; it was accepted; and I supposed that it was inserted in the bill; but, through some error, it was left out, and the bill passed without its insertion. This is simply to correct that error.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURTON. I offer the amendment which I send to the desk, to be inserted at the end of the bill. I will say that the amendment is reported from the Committee on Commerce.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

National Waterways Commission: Any officer or employee of the Government heretofore or hereafter employed by the National Waterways Commission may receive compensation for such employment from the money appropriated for said commission, notwithstanding the provisions of Revised Statutes, sections 1763, 1764, and 1765, and the act approved July 31, 1894, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1905, and for other purposes," and any other law whatsoever relating to such employment and compensation; and, in addition to the traveling and other expenses of members of the commission and their employees, the actual necessary expenses of persons detailed by any department or bureau of the Government while accompanying said commission on any inspection trip in the United States or elsewhere may be paid from the money appropriated for said commission.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PILES. I offer an amendment to come in at the bottom of page 5.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. At the bottom of page 5, after the amendment already agreed to and inserted at that place, it is proposed to insert the following:

The Secretary of the Navy is hereby directed to transfer and turn over to the Secretary of the Treasury, for the use of the Revenue-Cutter Service, the storehouse and wharf at Ediz Hook, in the State of Washington; and of the unexpended balance of the appropriation made by the act approved May 27, 1908, for the construction of a wharf and storehouse at Waadah Island, Neah Bay, Washington, the sum of

\$5,000 is hereby reappropriated and made available for the repair and completion of said storehouse and wharf; the unexpended balance of said appropriation to be covered into the Treasury.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. BURKETT. What appropriation is it that is now going to be switched around?

Mr. PILES. In May, 1908, Congress appropriated \$24,000 for the purpose of constructing a storehouse and wharf at Waadah Island, in the State of Washington, for the use of the life-saving tug *Suohomish*. After some preliminary work it was discovered that the bottom was altogether too rocky to construct a safe wharf at that place. The Navy Department has a building near Port Angeles, which, by the expenditure of some \$5,000 for improvements, can be put in suitable condition as a wharf and storehouse. If this amendment is adopted, the balance of the \$24,000 appropriated in 1908 will be returned to the Treasury and, as a matter of fact, a saving to the Government of some \$17,000 will be effected.

Mr. HALE. It is a good provision.

Mr. BURKETT. I am not going to oppose the provision, I will say to the Senator, for I take it that it is a wise one; and, as I understand, it is a matter of economy; but I raise this question now, just as I raised a similar one awhile ago. In this little bill, short as it is, there are half a dozen or a dozen places where funds are switched. We do not know where the money is going. We appropriate money, after some consideration, for a very laudable purpose. There happens to be a little left over which the department wants, or somebody else wants, to apply in a different manner, and we come in, and on the spur of the moment, without any consideration, switch a fund from one thing over to another, simply because it does not mean any additional appropriation. I am going to say now, publicly and just as loudly as I can, so that every department of the Government will hear it, and so that every Senator will hear it, that hereafter I am going to oppose, unless there is very good reason why I should not do so, every single attempt that is made to switch appropriations in this manner. If an item is good, it ought to stand on its own merits, and it ought to go in and be appropriated for after proper consideration; but it ought not to ride through in this easy sort of method simply because it does not carry any appropriation. It is a switching of money from one fund over into another.

For example, there is a place in this bill where we are doing a thing which I question whether we ought to do in connection with schoolhouses for the District of Columbia. I am not certain that it is wrong; I simply do not know. We have not given it very much consideration; but the best that can be said for it is that it is making no additional appropriation for this purpose. It may be a good item; but if it is, it ought to come in in the regular way and be appropriated for on its own merits, and not be provided for in this bill by a reappropriation.

Mr. GALLINGER. I am sorry the Senator has made that illustration. The only trouble about that was that in the last appropriation bill we used the words "the year 1908" instead of the words "the year 1909." We simply correct that clerical error.

Mr. BURKETT. I am referring to the item where we have switched a fund that we appropriated to care for temporary rooms for classes above the second grade, now on half time, to make it apply to portable schools.

Mr. GALLINGER. That is the very item. It was a clerical mistake.

Mr. BURKETT. As I have said, we did not at least give it very much consideration.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Washington [Mr. PILES].

The amendment was agreed to.

Mr. DEPEW. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 4, after line 16, it is proposed to insert:

New York appraisers' stores and custom-house: The Secretary of the Treasury is hereby authorized, in expending the appropriation of \$175,000 for the installation of pneumatic-tube service between the new custom-house and appraisers' stores in the city of New York, to accept the franchise as granted by the government of the city of New York, and to enter into a contract with said city to abide by its terms, conditions, and requirements.

The amendment was agreed to.

Mr. SCOTT. I desire to offer the amendment I send to the desk.

The SECRETARY. On page 5, after the amendments heretofore inserted, it is proposed to insert the following:

That the Secretary of the Treasury be, and is hereby, directed, in making reports on bills for the erection of public buildings, to do so

upon the report of an inspector who shall have personally visited said city where such building is proposed to be erected, and such report shall cover the needs and necessity for such building, with a view to future necessities. And any money necessary for the carrying out of these provisions is hereby appropriated out of any unexpended money in the Treasury.

Mr. CLAY. Mr. President, this is an urgent deficiency bill, and if this extra session of Congress had not been called not a single item in this bill would have been considered. I hope the chairman of the Committee on Appropriations will see to it that no items are included in it except deficiency items. Senators are offering on the floor of the Senate amendment after amendment which have not been considered by the Committee on Appropriations. It does strike me that we ought to keep within the rule and see that this bill contains nothing except appropriations which are absolutely necessary on account of conditions that have arisen since the Congress has been convened in extra session.

Mr. President, I make the point of order that the amendment proposes general legislation.

Mr. HALE. It is undoubtedly legislation.

Mr. SCOTT. The Senator from Georgia did not appear to "get onto the curves" of this bill until this particular amendment was offered.

Mr. CLAY. I did not know that the Senator from West Virginia—

Mr. SCOTT. I desire, as chairman of the Committee on Public Buildings and Grounds, to say that if an amendment of this kind can be gotten through the Senate it will save from eight to ten million dollars; but if Senators do not want to practice economy in this direction I am perfectly willing that the amendment should go out. There is no appropriation—

Mr. CLAY. If it is going to save eight or ten million dollars, I withdraw the point of order.

Mr. HALE. Let us have a vote.

The VICE-PRESIDENT. The Senator from Georgia withdraws the point of order. The question is on agreeing to the amendment offered by the Senator from West Virginia.

The amendment was agreed to.

Mr. CURTIS. I offer the amendment I send to the desk.

The SECRETARY. On page 23, line 8, after the word "House," insert "Hershel Shaw, Eustace D. Smith, Harold S. G. Van Voorhis, elevator conductors."

The amendment was agreed to.

Mr. DANIEL. After the word "dollars," in line 21, on page 22, I move to insert "Joseph S. McCoy, \$1,000." The appropriations in this item are for certain employees of the Senate and its committees. Joseph S. McCoy is an actuary of the Treasury, in the office of the Secretary—

Mr. KEAN. I understand he was employed by the minority?

Mr. HALE. There is no objection to the amendment.

Mr. KEAN. Let it be put in.

The VICE-PRESIDENT. The question is on agreement to the amendment proposed by the Senator from Virginia.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

Mr. BURKETT. Mr. President, I now desire to offer formally the amendment to which I have referred. I will say to the chairman of the committee that whatever may be the wisdom or propriety of fixing these salaries, we do not want any question of doubt hanging over us in the future as to whether these officers have a right to recover the salaries. If one goes out, of course the other goes out; but if the conferees shall decide to leave in this matter of salaries, reduced as the Senate has reduced them, I have no doubt there ought to be a provision that they shall be accepted in full payment.

Mr. HALE. I will not object.

Mr. BURKETT. I am going to offer it to come in after the first paragraph. After thinking it over, I have come to the conclusion that that is the better place, and it will save the necessity of repeating it.

Mr. HALE. It will all go together.

Mr. BURKETT. It will all go in or all go out.

The VICE-PRESIDENT. The amendment proposed by the Senator from Nebraska will be stated.

The SECRETARY. On page 1, after the word "namely" in line 7, insert:

Provided, That the several amounts herein appropriated for salaries shall be accepted in full payment by the persons holding such positions.

The amendment was agreed to.

The amendments made as in Committee of the Whole were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.



## HOUR OF MEETING MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day it be until 10 o'clock Monday morning.

The motion was agreed to.

## EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After four minutes spent in executive session the doors were reopened, and (at 2 o'clock and 59 minutes p. m.) the Senate adjourned until Monday, August 2, 1909, at 10 o'clock a. m.

## NOMINATIONS.

*Executive nominations received by the Senate July 31, 1909.*

## MINISTERS.

William Heimké, of Kansas, now envoy extraordinary and minister plenipotentiary to Guatemala, to be envoy extraordinary and minister plenipotentiary of the United States of America to Salvador, vice H. Percival Dodge, appointed envoy extraordinary and minister plenipotentiary to Morocco.

William F. Sands, of the District of Columbia, now secretary of the embassy at Mexico, to be envoy extraordinary and minister plenipotentiary of the United States of America to Guatemala, vice William Heimké, nominated to be envoy extraordinary and minister plenipotentiary to Salvador.

## SECRETARIES OF EMBASSIES.

James G. Bailey, of Kentucky, now secretary of the legation at Stockholm, to be secretary of the embassy of the United States of America at Mexico, Mexico, vice William F. Sands, nominated to be envoy extraordinary and minister plenipotentiary to Guatemala.

Arthur Bailly-Blanchard, of Louisiana, now second secretary of the embassy at Paris, to be secretary of the embassy of the United States of America at Paris, France, vice Henry Vignaud, resigned.

John H. Gregory, jr., of Louisiana, now secretary of the legation at Managua, to be second secretary of the embassy of the United States of America at Constantinople, Turkey, vice A. Campbell Turner, nominated to be secretary of the legation at Madrid.

Hugh S. Gibson, of California, now secretary of the legation at Tegucigalpa, to be second secretary of the embassy of the United States of America at London, England.

Roland B. Harvey, of Maryland, to be second secretary of the embassy of the United States of America at Vienna, Austria, vice Nelson O'Shaughnessy, nominated to be secretary of the legation and consul-general to Roumania and Serbia and secretary of the diplomatic agency in Bulgaria.

Irwin B. Laughlin, of Pennsylvania, now secretary of the legation to Greece and Montenegro, to be second secretary of the embassy of the United States of America at Paris, France, vice Arthur Bailly-Blanchard, nominated to be secretary of the embassy at Paris.

Balkam Schoyer, of Pennsylvania, to be second secretary of the embassy of the United States of America at Rio de Janeiro, Brazil, to fill an original vacancy.

Charles S. Wilson, of Maine, now secretary of the legation at Buenos Aires, to be second secretary of the embassy of the United States of America at Rome, Italy, vice Robert M. Winthrop, nominated to be secretary of the legation to Greece and Montenegro.

Charles Campbell, jr., of Virginia, to be third secretary of the embassy of the United States of America at Tokyo, Japan, vice William K. Wallace, nominated to be secretary of the legation at Copenhagen.

Franklin Mott Gunther, of Virginia, to be third secretary of the embassy of the United States of America at Paris, France, vice Seth Low Pierrepont, nominated to be secretary of the legation at Santiago, Chile.

G. Andrews Moriarty, jr., of Rhode Island, to be third secretary of the embassy of the United States of America at Mexico, Mexico, vice Thomas Ewing Dabney, appointed second secretary of the embassy at Mexico.

## SECRETARIES OF LEGATIONS.

Frank D. Arnold, of Pennsylvania, to be secretary of the legation of the United States of America at Guatemala, Guatemala.

Alexander Benson, of Pennsylvania, to be secretary of the legation of the United States of America at La Paz, Bolivia, vice Gustavus L. Monroe, jr., appointed secretary of the legation at San José, Costa Rica.

Philip Bayard, of Delaware, to be secretary of the legation of the United States of America at Tangier, Morocco.

Robert Woods Bliss, of New York, now secretary of the legation at Brussels, to be secretary of the legation of the United States of America at Buenos Aires, Argentine Republic, vice Charles S. Wilson, nominated to be second secretary of the embassy at Rome.

William P. Cresson, of Nevada, to be secretary of the legation of the United States of America at Lima, Peru.

Francis Munroe Endicott, of Massachusetts, to be secretary of the legation of the United States of America at Santo Domingo, Dominican Republic, vice Philip M. Hoefele, resigned.

Henry Coleman May, of the District of Columbia, now third secretary of the embassy at St. Petersburg, to be secretary of the legation of the United States of America at Stockholm, Sweden, vice James G. Bailey, nominated to be secretary of the embassy at Mexico.

Alexander R. Magruder, of Maryland, to be secretary of the legation of the United States of America to Paraguay and Uruguay.

J. Butler Wright, of Wyoming, to be secretary of the legation of the United States of America at Tegucigalpa, Honduras, vice Hugh S. Gibson, nominated to be second secretary of the embassy at London.

Sheldon Whitehouse, of New York, to be secretary of the legation of the United States of America at Caracas, Venezuela, vice Jacob Sleeper, appointed secretary of the legation at Berne.

Robert M. Winthrop, of Massachusetts, now second secretary of the embassy at Rome, to be secretary of the legation of the United States of America to Greece and Montenegro, vice Irwin B. Laughlin, nominated to be second secretary of the embassy at Paris.

William K. Wallace, of Colorado, now third secretary of the embassy at Tokyo, to be secretary of the legation of the United States of America at Copenhagen, Denmark.

A. Campbell Turner, of Missouri, now second secretary of the embassy at Constantinople, to be secretary of the legation of the United States of America at Madrid, Spain, vice William H. Buckler, resigned.

Seth Low Pierrepont, of Connecticut, now third secretary of the embassy at Paris, to be secretary of the legation of the United States of America at Santiago, Chile, vice U. Grant Smith, nominated to be secretary of the legation at Brussels.

U. Grant Smith, of Pennsylvania, now secretary of the legation at Santiago, Chile, to be secretary of the legation of the United States of America at Brussels, Belgium, vice Robert Woods Bliss, nominated to be secretary of the legation at Buenos Aires.

Nelson O'Shaughnessy, of New York, now second secretary of the embassy at Vienna, to be secretary of the legation and consul-general of the United States of America to Roumania and Serbia, and secretary of the diplomatic agency in Bulgaria.

G. Cornell Tarler, of New York, now second secretary of the legation at Habana, to be secretary of the legation and consul-general of the United States of America at Bangkok, Siam, vice John Van A. MacMurray, appointed second secretary of the embassy at St. Petersburg.

Norval Richardson, of Mississippi, to be second secretary of the legation of the United States of America at Habana, Cuba, vice G. Cornell Tarler, nominated to be secretary of the legation and consul-general at Bangkok.

## POSTMASTERS.

## MICHIGAN.

Burton D. Cady to be postmaster at Port Huron, Mich., in place of Loren A. Sherman. Incumbent's commission expired December 17, 1907.

## NEW YORK.

Howard M. Brush to be postmaster at Smithtown Branch, N. Y. Office became presidential July 1, 1909.

## NORTH DAKOTA.

James I. Cubbison to be postmaster at Minnewaukan (late Minnewaukon), N. Dak., in place of James M. Cubbison, to change name of office.

## OHIO.

Edward E. Peterson to be postmaster at Williamsburg, Ohio. Office became presidential January 1, 1908.

Charles A. Tracy to be postmaster at Malta, Ohio, in place of Thomas E. Dunnington. Incumbent's commission expired January 20, 1909.

# CONFIRMATIONS.

*Executive nominations confirmed by the Senate July 31, 1909.*

ASSOCIATE JUSTICE, SUPREME COURT OF NEW MEXICO.

Merritt C. Meecham to be associate justice of the supreme court of the Territory of New Mexico.

REGISTER OF LAND OFFICE.

William H. Pound to be register of the land office at Sterling, Colo.

POSTMASTERS.

ILLINOIS.

Charles H. Dehart, at Arthur, Ill.

OHIO.

George P. Bumgarner, at St. Clairsville, Ohio.

William L. Maddox, at Ripley, Ohio.

WEST VIRGINIA.

T. G. Arnold, at Thurmond, W. Va.

## HOUSE OF REPRESENTATIVES.

SATURDAY, July 31, 1909.

The House met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

### THE TARIFF.

Mr. PAYNE. Mr. Speaker, I call up the conference report on the bill H. R. 1438, the tariff bill, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from New York calls up the conference report on the tariff bill and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. MONDELL. Mr. Speaker, I would ask the gentleman from New York whether the report is very lengthy?

Mr. UNDERWOOD. Mr. Speaker, I shall reserve the right to object.

Mr. PAYNE. It is quite lengthy.

Mr. MONDELL. Mr. Speaker, I think we should have the report read for the information of the House, and I shall object.

Mr. PAYNE. Very well.

The SPEAKER. The gentleman from Wyoming objects, and the Clerk will read the conference report.

The Clerk proceeded to read the conference report.

[For conference report see Record of July 30, 1909.]

The Clerk read as far as section 13, on page 53 of the report, when,

Mr. PAYNE. Mr. Speaker, I ask unanimous consent to dispense with the further reading of the report of the conferees and the statement.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FITZGERALD. Mr. Speaker, I wish to reserve the right to make a point of order against the report, and, with that reservation, I have no objection.

The SPEAKER. The request of the gentleman from New York would not interfere with that right. The Chair hears no objection.

Mr. DALZELL. Mr. Speaker, I present the following privileged report (H. Rept. No. 21) from the Committee on Rules, which I send to the desk and ask to have read.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 103, have had the same under consideration, and herewith report the following in lieu thereof:

House resolution 104.

"Resolved, That immediately upon the adoption of this order the House shall proceed to consider the report of the managers of the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes; that none of the provisions of said report shall be subject to a point of order; that general debate shall continue until 8 o'clock p. m. of this day, unless sooner concluded, and that immediately upon the conclusion of general debate the previous question shall be considered as ordered on the motion to agree to the report; and that general leave to print on the subjects of this report shall be granted for ten calendar days."

Mr. DALZELL. Mr. Speaker, on the adoption of that resolution, I demand the previous question.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania on ordering the previous question.

The question was taken; and on a division (demanded by Mr. CLARK of Missouri) there were—ayes 154, noes 98.

So the previous question was ordered.

The SPEAKER. The gentleman from Pennsylvania [Mr. DALZELL] is entitled to twenty minutes and the gentleman from Missouri [Mr. CLARK] to twenty minutes.

Mr. DALZELL. Mr. Speaker, the purpose of this order is to enable the House to take up for immediate consideration the conference report upon the disagreement of the House to the Senate amendments on the tariff bill. The order provides that general debate on the consideration of that report may continue until 8 o'clock this evening, at which time the previous question shall be considered as ordered and a vote taken, unless in the meantime general debate shall have been closed. It provides further—and that is really the material part of the order—that points of order shall not be in order to any provision in the bill. The bill as it went from the House to the Senate provided that "hides of cattle, raw or uncured, whether dry, salted, or pickled," should come in free. The Senate bill struck that provision from the free list and inserted under the dutiable list the following provision:

Hides of cattle, raw or uncured, whether dry, salted, or pickled, 15 per cent ad valorem: *Provided*, That upon all leather exported made from imported hides there shall be paid a drawback equal to the amount of the duty paid on such hides, to be paid under such regulations as the Secretary of the Treasury may prescribe.

The conference committee adopted a new provision, which conforms neither to the House provision nor to the Senate provision, and which is in these terms:

450. Hides of cattle, raw or uncured, whether dry, salted, or pickled, shall be admitted free of duty: *Provided*, That on and after October 1, 1909, sole leather made from such hides shall pay a duty of 5 per cent ad valorem; that grain, buff, and split leather made from such hides shall pay a duty of 7½ per cent ad valorem; that boots and shoes, the upper leather of which is made wholly or in chief value from such hides, shall pay a duty of 10 per cent ad valorem; that harness, saddles, and saddlery, in sets or in parts, finished or unfinished, composed wholly or in chief value of leather made from such hides, shall pay a duty of 20 per cent ad valorem.

It will be observed that in the provision adopted by the conference committee an amendment to the hide paragraph is made which is not germane to that paragraph, but which relates to the subject of leather. It will also be observed that the rates of duty imposed by the provision adopted by the conference committee are lower than the rates of duty provided either in the Senate or in the House bill. Under these circumstances this paragraph is undoubtedly, in my judgment, although I have heard that judgment questioned, subject to a point of order, because it infringes the rule which excludes from the jurisdiction of a conference committee any new matter; a wise rule, a rule absolutely necessary to be observed in general in the making up of conference reports on these great bills with which we have to deal at every session of Congress. But where the reason ceases, the rule should likewise cease, and in this case the provision of the conference committee was made to carry out, as the conference committee believes, the will of the two Houses. Upon the one side the House by a very large vote, a majority of 173, declared in favor of free hides. The managers of the conference committee on the part of the House thought that that was tantamount to an instruction to them to insist upon free hides. Upon the other hand, the Senators from certain Western States, where the cattle industry is an important industry, protested that they could not and would not vote for the bill unless there was a duty on hides. The conference committee therefore was presented with a situation which seemed to imperil any agreement at all, and a compromise was finally made whereby if hides were allowed to remain on the free list, a reduction should be made upon leather and boots and shoes and harness.

And for the purpose of carrying out what I believe to be the will of the Senate under the circumstances, and the will of the House, and bringing the two Houses together so that legislation might be enacted, this provision was inserted, and the House is now asked to waive, to set aside, the ordinary rule which applies in such cases.

Mr. CLARK of Missouri. Mr. Speaker, I would like to ask the gentleman a question.

Mr. DALZELL. I shall be glad to answer the gentleman.

Mr. CLARK of Missouri. This rule in its terms is very broad and sweeping. You have had a better opportunity to know what is in this report than I have, because you have had more time; but I will take your word on a question of fact. Now, I want to know whether or not there is any item in this conference report on which the rate in the conference report is higher than the maximum rate in either the House or the Senate bill on the same item?

Mr. DALZELL. There is not, so far as I know, and I believe there is none. I want to be very frank to the House. I do not believe there is a single provision in this conference report that is subject to a point of order except the one to which I